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Conservation of Power and Water Resources

18

PARTS 1 TO 149

Revised as of April 1, 1989

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Conservation of Power and Water Resources

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PARTS 1 TO 149

Revised as of April 1, 1989

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A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF APRIL 1, 1989

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Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 18 CFR 1.101 *refers to Title 18, Part 1, section 101.*

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

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Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

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The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request. Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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MARTHA L. GIRARD
Acting Director,
Office of the Federal Register.

April 1, 1989.

THIS TITLE

Title 18—CONSERVATION OF POWER AND WATER RESOURCES is composed of four volumes. The first three volumes, Parts 1 to 149, Parts 150 to 279, and Parts 280 to 399 contain Chapter I, the current regulations of the Federal Energy Regulatory Commission, Department of Energy. The fourth volume, containing Part 400 to End, includes all current regulations issued by the Delaware River Basin Commission, the Office of Water Resources Research (Department of the Interior), the Water Resources Council, the Susquehanna River Basin Commission, and the Tennessee Valley Authority as of April 1, 1989.

The OMB control numbers for the Federal Energy Regulatory Commission, Department of Energy, appear in § 389.101 of Chapter I. For the convenience of the user, § 389.101 is reprinted in the Finding Aids section of the first and second volumes.

Redesignation Tables appear in the first and fourth volumes.

For this volume Suz Meyer was Chief Editor. The Code of Federal Regulations publications program is under the direction of Richard L. Claypoole, assisted by Ruth C. Pontius.

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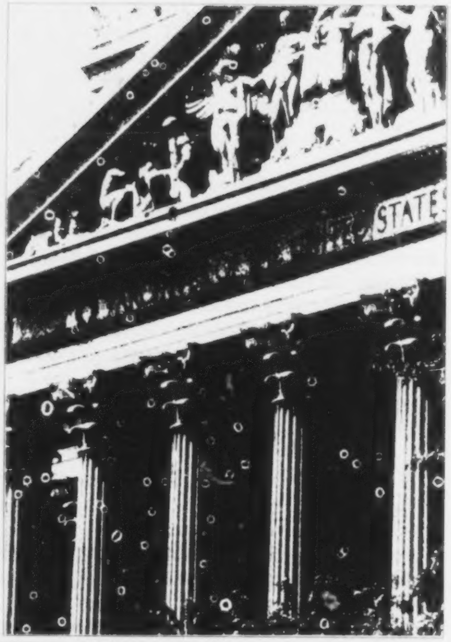

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Title 18—Conservation of Power and Water Resources

(This book contains Parts 1 to 149)

Part

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CROSS REFERENCES: Applications and entries conflicting with lands reserved or classified as power sites, or covered by power applications: See Public Lands, Interior, 43 CFR Subpart 2320.

Interstate Commerce Commission: See Transportation, 49 CFR Chapter X.

Irrigation projects; electrification, Bureau of Indian Affairs, Department of the Interior: See Indians, 25 CFR Parts 175—177.

Regulations of the Bureau of Land Management relating to rights-of-way for power, telephone, and telegraph purposes: See Public Lands, Interior, 43 CFR Group 2800.

Rights-of-way over Indian lands: See Indians, 25 CFR Parts 169, 170, and 265.

Securities and Exchange Commission: See Commodity and Securities Exchanges, 17 CFR Chapter II.

Withdrawal of public lands: See Public Lands, Interior, 43 CFR Group 2300.

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(Parts 1 to 149)

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ABBREVIATIONS: The following abbreviations are used in this chapter:

M.c.f.=Thousand cubic feet. B.t.u.=British thermal units. ICC=Interstate Commerce Commission.

SUBCHAPTER A—GENERAL RULES

PART 1—RULES OF GENERAL APPLICABILITY

Subpart A—Definitions and Rules of Construction

Sec.
1.101 Definitions.
1.102 Words denoting, number, gender and so forth.

Subpart A—Definitions and Rules of Construction

§ 1.101 Definitions.

The definitions set forth in this section apply for purposes of this chapter, except as otherwise provided in this chapter:

(a) "Commission" means the Federal Energy Regulatory Commission.

(b) "Chairman" means the Chairman of the Commission.

(c) "Commissioner" and "Member" mean a member of the Commission.

(d) "Secretary" means the Secretary of the Commission.

(e) "Executive Director" means the Executive Director of the Commission.

(f) "General Counsel" means the General Counsel of the Commission.

(g) "DOE Act" means the Department of Energy Organization Act.

(h) "DOE" means the Department of Energy.

(i) "Administrative law judge" means an officer appointed under section 3105 of title 5 of the United States Code.

(j) "Attorney" means an attorney admitted to practice before the Supreme Court of the United States or the highest court of any State, territory of the United States, or the District of Columbia, or any other person with the requisite qualifications to represent others, who acts in a representative capacity for any participant before the Commission.

(k) "State Commission" means the regulatory body of any State or municipality having jurisdiction to regulate rates or charges for the sale of electric energy or natural gas to consumers or for the transportation of oil by pipeline within the State or municipality.

(l) "Oath" includes "affirmation" and "sworn" includes "affirmed".

(Dept. of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. Ch. 5)

[Order 225, 47 FR 19022, May 3, 1982; 48 FR 786, Jan. 7, 1983]

§ 1.102 Words denoting number, gender and so forth.

In determining the meaning of any provision of this chapter, unless the context indicates otherwise:

(a) The singular includes the plural;

(b) The plural includes the singular;

(c) The present tense includes the future tense; and

(d) Words of one gender include the other gender.

(Dept. of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. Ch. 5)

[Order 225, 47 FR 19022, May 3, 1982]

PART 1b—RULES RELATING TO INVESTIGATIONS

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1b.4 Types of investigations.
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AUTHORITY: Natural Gas Act, 15 U.S.C. 717 et seq.; Federal Power Act, 16 U.S.C. 792 et seq.; Interstate Commerce Act, 49 U.S.C. 1 et seq.; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.

SOURCE: 43 FR 27174, June 23, 1978, unless otherwise noted.

§ 1b.1 Definitions.

For purposes of this part—

(a) "Formal investigation" means an investigation instituted by a Commission Order of Investigation.

(b) "Preliminary Investigation" means an inquiry conducted by the Commission or its staff, other than a formal investigation.

(c) Investigating officer means the individual(s) designated by the Commission in an Order of Investigation as Officer(s) of the Commission.

§ 1b.2 Scope.

This part applies to investigations conducted by the Commission but does not apply to adjudicative proceedings.

§ 1b.3 Scope of investigations.

The Commission may conduct investigations relating to any matter subject to its jurisdiction.

§ 1b.4 Types of investigations.

Investigations may be formal or preliminary, and public or private.

§ 1b.5 Formal investigations.

The Commission may, in its discretion, initiate a formal investigation by issuing an Order of Investigation. Orders of Investigation will outline the basis for the investigation, the matters to be investigated, the officer(s) designated to conduct the investigation and their authority. The director of the office responsible for the investigation may add or delete Investigating Officers in the Order of Investigation.

§ 1b.6 Preliminary investigations.

The Commission or its staff may, in its discretion, initiate a preliminary investigation. In such investigations, no process is issued or testimony compelled. Where it appears from the preliminary investigation that a formal investigation is appropriate, the staff will so recommend to the Commission.

§ 1b.7 Procedure after investigation.

Where it appears that there has been or may be a violation of any of the provisions of the acts administered by the Commission or the rules, opinions or orders thereunder, the Commission may institute administrative proceedings, initiate injunctive proceedings in the courts, refer matters, where appropriate, to the other governmental authorities, or take other appropriate action.

§ 1b.8 Requests for Commission investigations.

(a) Any individual, partnership, corporation, association, organization, or other Federal or State governmental entity, may request the Commission to institute an investigation.

(b) Requests for investigations should set forth the alleged violation of law with supporting documentation and information as completely as possible. No particular forms or formal procedures are requested.

(c) It is the Commission's policy not to disclose the name of the person or entity requesting an investigation except as required by law, or where such disclosure will aid the investigation.

§ 1b.9 Confidentiality of investigations.

All information and documents obtained during the course of an investigation, whether or not obained pursuant to subpoena, and all investigative proceedings shall be treated as nonpublic by the Commission and its staff except to the extent that (a) the Commission directs or authorizes the public disclosure of the investigation; (b) the information or documents are made a matter of public record during the course of an adjudicatory proceeding; or (c) disclosure is required by the Freedom of Information Act, 5 U.S.C. 552. Procedures by which persons submitting information to the Commission during the course of an investigation may specifically seek confidential treatment of information for purposes of Freedom of Information Act disclosure are set forth in 18 CFR Part 3b and § 1b.20. A request for confidential treatment of information for purposes of Freedom of Information Act disclosure shall not, however, prevent disclosure for law enforcement purposes or when disclosure is otherwise found appropriate in the public interest and permitted by law.

§ 1b.10 By whom conducted.

Formal Commission investigations are conducted by the Commission or by an individual(s) designated and authorized in the Order of Investigation. Investigating Officers are "officers" within the meaning of the statutes administered by the Commission and are authorized to perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Investigating Officers shall have such duties as the Commission may specify in an Order of Investigation.

§ 1b.11 Limitation on participation.

There are no parties, as that term is used in adjudicative proceedings, in an investigation under this Part and no person may intervene or participate as a matter of right in any investigation under this part. Section 2.72 of the rules is specifically not applicable to private investigations conducted by the Commission or its staff.

§ 1b.12 Transcripts.

Transcripts, if any, of investigative testimony shall be recorded solely by the official reporter, or by any other person or means designated by the investigating officer. A witness who has given testimony in an investigation shall be entitled, upon written request, to procure a transcript of the witness' own testimony on payment of the appropriate fees, except that in a nonpublic formal investigation the office responsible for the investigation may for good cause deny such request. In any event, any witness or his counsel, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony. This provision supersedes § 385.1904(b) of this chapter.

[43 FR 27174, June 23, 1978, as amended by Order 225, 47 FR 19054, May 3, 1982]

§ 1b.13 Powers of persons conducting formal investigations.

Any member of the Commission or the Investigating Officer, in connection with any formal investigation ordered by the Commission, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records relevant or material to the investigation.

§ 1b.14 Subpoenas.

(a) Service of a subpoena upon a person named therein shall be made be the investigating officer (1) by personal delivery, (2) by certified mail, (3) by leaving a copy thereof at the principle office or place of business of the person to be served, (4) or by delivery to any person designated as agent for service or the person's attorney.

(b) At the time for producing documents subpoenaed in an investigation, the subpoenaed party shall submit a statement stating that, if true, such person has made a diligent search for the subpoenaed documents and is producing all the documents called for by the subpoena. If any subpoenaed document(s) are not produced for any reason, the subpoenaed party shall state the reason therefor.

(c) If any subpoenaed documents in an investigation are withheld because of a claim of the attorney-client privilege, the subpoenaed party shall submit a list of such documents which shall, for each document, identify the attorney involved, the client involved, the date of the document, the person(s) shown on the document to have prepared and/or sent the document, and the person(s) shown on the document to have received copies of the document.

§ 1b.15 Non-compliance with compulsory processes.

In cases of failure to comply with Commission compulsory processes, appropriate action may be initiated by the Commission or the Attorney General, including but not limited to actions for enforcement or the imposition of penalties.

§ 1b.16 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or testimony in a formal investigation shall, upon request, be shown the Commission's Order of Investigation. Copies of Orders of Investigation shall not be furnished, for their retention, to such persons requesting the same except with the express approval of the director of the office responsible for the investigation. Such approval shall not be given unless the director of the office responsible for the investigation, in the director's discretion is satisfied that there exist reasons consistent with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

(b) Any person compelled to appear, or who appears in person at a formal investigation by request or permission of the Investigating Officer may be accompanied, represented and advised by counsel, as provided by § 385.2101 of this chapter and these rules, except that all witnesses shall be sequestered and, unless permitted in the discretion of the Investigating Officer, no witness or the counsel accompanying any such witness shall be permitted to be present during the examination of any other witness called in such proceeding. When counsel does represent more than one person in an investigation, for example, where the counsel is counsel to the witness and his employer, said counsel shall inform the Investigating Officer and each client of said counsel's possible conflict of interest in representing that client and, if said counsel appears with a witness giving testimony on the record in an investigation, counsel shall state on the record all persons said counsel represents in the investigation.

(c) Any witness may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise the witness, in confidence, upon his initiative or the witness' with respect to any question, and if the witness refuses to answer a question, then the witness or counsel may briefly state on the record the legal grounds for such refusal.

(2) Where it is claimed that the witness has a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(3) Following completion of the examination of a witness, such witness may make a statement on the record and his counsel may on the record question the witness to enable the witness to clarify any of the witness' answers or to offer other evidence.

(4) The Investigating Officer shall take all necessary action to regulate the course of the proceeding to avoid delay and prevent or restrain obstructionist or contumacious conduct or contemptuous language. Such officer may report to the Commission any instances where an attorney or representative has refused to comply with his directions, or has engaged in obstructionist or contumacious conduct or has used contemptuous language in the course of the proceeding. The Commission may thereupon take such further action as the circumstances may warrant, including suspension or disbarment of counsel from further appearance or practice before it, in accordance with § 385.2101 of this chapter, or exclusion from further participation in the particular investigation.

(d) Unless otherwise ordered by the Commission, in any public formal investigation, if the record shall contain implications of wrongdoing by any person, such person shall have the right to appear on the record; and in addition to the rights afforded other witnesses hereby, he shall have a reasonable opportunity of cross-examination and production of rebuttal testimony or documentary evidence. "Reasonable" shall mean permitting persons as full an opportunity to assert their position as may be granted consistent with administrative efficiency and with avoidance of undue delay. The determinations of reasonableness in each instance shall be made in the discretion of the investigating officer.

[43 FR 27174, June 23, 1978, as amended by Order 225, 47 FR 19054, May 3, 1982]

§ 1b.17 Appearance and practice before the Commission.

The provisions of Subpart U of Part 385 of this chapters are specifically applicable to all investigations.

[43 FR 27174, June 23, 1978, as amended by Order 225, 47 FR 19054, May 3, 1982]

§ 1b.18 Right to submit statements.

Any person may, at any time during the course of an investigation, submit documents, statements of facts or memoranda of law for the purpose of explaining said person's position or furnishing evidence which said person considers relevant regarding the matters under investigation.

§ 1b.19 Submissions.

When the Investigating Officer determines it is appropriate in the interest of the proper administration of the law, he may inform any person that a recommendation may be made to the Commission that said person be a defendant in a civil action to be brought by the Commission. In such case, said person may submit a statement of fact, argument, and/or memorandum of law, with such supporting documentation as said person chooses showing why said person should not be a defendant in any civil action brought by the Commission. The investigating officer shall inform said potential defendant of the date by which such statement may be submitted to said officer, and if such statement is submitted by such date, it shall be presented to the Commission together with any recommendation for enforcement action by the office responsible for the investigation.

§ 1b.20 Request for confidential treatment.

Any person compelled to produce documents in an investigation may claim that some or all of the information contained in a particular document(s) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure. In such case, the person making such claim shall, at the time said person produces the document to the officer conducting the investigation shall also produce a second copy of the document from which has been deleted the information for which the person wishes to claim confidential treatment. The person shall indicate on the original document that a request for confidential treatment is being made for some or all of the information in the document and shall file a statement specifying the specific statutory justification for non-disclosure of the information for which confidential treatment is claimed. General claims of confidentiality are not sufficient. Sufficient information must be furnished for the officer conducting the investigation, or other appropriate official, to make an informed decision on the request for confidential treatment. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the person shall include a statement specifying why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the Officer conducting the investigation may assume that there is no objection to public disclosure of the document in its entirety. The Commission retains the right to make the determination with regard to any claim of confidentiality. Notice of the decision by the investigating Officer or other appropriate official to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality no less than 5 days before its public disclosure.

PART 2—GENERAL POLICY AND INTERPRETATIONS

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STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

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STATEMENT OF GENERAL POLICY TO IMPLEMENT THE ECONOMIC STABILIZATION ACT OF 1970 AS AMENDED, AND EXECUTIVE ORDERS 11615 AND 11627

2.90 Implementation of Executive Order No. 11615.
2.90a Implementation of Executive Order No. 11627 and 6 CFR 300.016.
2.90b Implementation of Executive Order No. 11723.
2.91 Automated computer regulatory information system.
2.100 [Reserved]
2.101 [Reserved]
2.102 Policy respecting production-related activities performed by an interstate pipeline.
2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.
2.104 Mechanisms for passthrough of pipeline take-or-pay buyout and buydown costs.
2.105 Gas supply charges.

RULES OF GENERAL APPLICABILITY

2.201 [Reserved]

STATEMENTS OF GENERAL POLICY AND INTERPRETATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

2.300 Statement of policy concerning allegations of fraud, abuse, or similar grounds under section 601(c) of the NGPA.

STATEMENT OF INTERPRETATION UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

2.400 Statement of interpretation of waste concerning natural gas as the primary energy source for qualifying small power production facilities.

APPENDIX C—NATIONWIDE PROCEEDING COMPUTATION OF FEDERAL INCOME TAX ALLOWANCE INDEPENDENT PRODUCERS, PIPELINE AFFILIATES AND PIPELINE PRODUCERS CONTINENTAL U.S.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. No. 12009, 3 1978 Comp., p. 142; Federal Power Act, 16 U.S.C. 792-825r (1982) as amended by Electric Consumers Act of 1986, Pub. L. No. 99-495; Natural Gas Act, 15 U.S.C. 3301-3432 (1982); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1982); and National Environmental Policy Act, 42 U.S.C. 4321-4361 (1982).

STATEMENT OF INTERPRETATION UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

§ 2.1 Initial notice; service; and information copies of formal documents.

(a) Whenever appropriate, publication of an initial notice or order in the FEDERAL REGISTER shall be the primary means of informing interested persons and the general public that the proceeding to which the notice or order relates has been instituted before the Commission. The mailing of individual copies shall be confined to that which is required by law, by the Commission's rules and regulations, or by other considerations deemed valid by the Secretary in specific instances.

(1) It is the policy of the Commission to publish notice in the FEDERAL REGISTER upon the institution of the following proceedings before the Commission:

(i) *Natural gas pipeline companies and public utility rate schedules and tariffs.* (A) Initial rate schedule filings and changes in rates schedules proposed by public utilities and changes in rate schedules or tariffs proposed by natural gas pipeline companies, including purchased gas adjustment clauses.

(B) Changes in rates proposed by natural gas pipeline companies for field sales.

(C)-(D) [Reserved]

(E) Tracking rate schedule or tariff filings made pursuant to settlement agreements.

(F) Rate schedule or tariff filings made by natural gas pipeline companies or public utilities in compliance with Commission orders.

(G) Reports of refunds by natural gas pipeline companies and public utilities.

(H) [Reserved]

(I) Complaints against natural gas pipeline companies and public utilities, unless otherwise directed.

(ii) *Interconnections, service and exportation pursuant to the Federal Power Act.* (A) Applications for interconnection and service under section 202(b).

(B) Applications for interconnection and service under section 202(c), unless otherwise directed.

(C) Applications for interconnections for emergency use only under section 202(d), unless otherwise directed.

(D) Applications pursuant to section 207.

(E) Applications for authority to export electric energy to a foreign country under section 202(e).

(iii) *Hydroelectric, Federal Power Act.* (A) Applications for preliminary permits pursuant to section 4(f).

(B) Applications for licenses for constructed or unconstructed projects, or notice of declaration of intention, sections 4(e), 23(a)(b).

(C) Applications for amendment of license, unless otherwise directed.

(D) Application for relicenses or nonpower licenses, or a recommendation for takeover, sections 14 and 15.

(E) Applications for transfer of license, section 8.

(F) Applications for surrender of license, section 6.

(G) Proceeding for revocation or termination of license, sections 6, 13, 26.

(H) Issuance of annual licenses, section 15.

(I) Lands withdrawn pursuant to an application for preliminary permit or license, and the vacation of such land withdrawals, section 24.

(J) Complaints against licensees, unless otherwise directed.

(iv) *Corporate electric.* (A) Applications pursuant to sections 203, 204, of the Federal Power Act, and applications or complaints pursuant to section 305 of the Federal Power Act.

(v) *Accounting, gas and electric.* (A) Applications pursuant to sections 4, 23, 301, and 302 of the Federal Power Act.

(B) Applications pursuant to sections 8 and 9 of the Natural Gas Act.

(vi) *Federal rates.* (A) Application for confirmation and approval of rate schedules for Federal hydroelectric projects.

(vii) *Natural gas pipeline certificates, exportations, and importations, Natural Gas Act.* (A) Applications for exemption under section 1(c).

(B) Applications for authorization to import and export gas under section 3.

(C) Applications for orders directing physical connection of facilities and sale of natural gas under section 7(a).

(D) Applications for permission and approval to abandon under section 7(b).

(E) Applications for permanent certificates under section 7(c).

(F) [Reserved]

(G) Complaints against natural gas pipeline companies, filed by individuals and companies, unless otherwise directed.

(viii) *Independent producers.* (A) Orders suspending rates for independent producers and initiating a hearing thereon.

(B) Filing of offers of settlement.

(C) Small producer applications and petitions for relief relating to small producer matters.

(D) Petitions for special relief under the Commission's area rate opinions.

(ix) *Presidential permits, gas and electric.* (A) Applications for permits under Executive Order No. 10485 (3 CFR, 1949-1954 Comp., p. 970).

(x) *Environmental statements.* (A) Notice to be published pursuant to Order series 415.

(xi) *Miscellaneous, gas and electric.* (A) Order instituting an investigation in which hearings are fixed or in which an opportunity is given for filing comments or petitions to intervene.

(B) Show cause order, in which hearings are fixed or in which an opportunity is given for filing comments or petitions to intervene.

(C) Order or notice consolidating proceedings for hearing purposes or severing a proceeding formerly consolidated for hearing purposes.

(D) Applications for declaratory order, disclaimers of jurisdiction, or waiver of Commission regulations, unless otherwise directed.

(E) Requests for redesignation pursuant to § 3.5(a)(26) of this subchapter, unless otherwise directed.

(F) Requests for extension of time pursuant to § 3.75.302(j) of this chapter, unless otherwise directed.

(G) Consolidations and severance pursuant to § 375.302(f) of this chapter, unless otherwise directed.

(H) Notice of correction of a document in any of the above categories.

(I) Notice of meetings of advisory committees established by the Commission.

(J) Notices of conferences in docketed rulemaking proceedings.

(K) Such other notices or orders as may be submitted by the Secretary for publication.

(2) "Otherwise directed," as referred to above, shall be interpreted to mean notice given by the discretion of the Secretary.

(b) After notice has been given, the service of formal documents issued in a proceeding shall be confined to the parties of record or their attorneys, and the mailing of information copies shall be confined to that which is required by the Commission's rules and regulations, by courtesy in response to written requests for copies, or by other considerations deemed valid by the Secretary in specific instances.

(Secs. 308, 309; 49 Stat. 858; 16 U.S.C. 825g, 825h; secs. 15, 16; 52 Stat. 829, 830; 15 U.S.C. 717n, 717o)

[Order 211, 24 FR 1345, Feb. 21, 1959, as amended by Order 463, 37 FR 28054, Dec. 20, 1972; 38 FR 3192, Feb. 2, 1973; 44 FR 34941, June 18, 1979; 45 FR 21224, Apr. 1, 1980]

§ 2.1a Public suggestions, comments, proposals on substantial prospective regulatory issues and problems.

(a) The Commission by this policy statement explicitly encourages the public, including those persons subject to regulation by the Commission, to submit suggestions, comments, or proposals concerning substantial prospective regulatory policy issues and problems, the resolution of which will have a substantial impact upon those regulated by the Commission or others affected by the Commission's activities. This policy is intended to serve as a means of advising the Commission on a timely basis of potential significant issues and problems which may come before it in the course of its activities and to permit the Commission an early opportunity to consider argument regarding policy questions and administrative reforms in a general context rather than in the course of individual proceedings.

(b) Upon receipt of suggestions, comments, or proposals pursuant to paragraph (a) of this section, the Commission shall review the matters raised and take whatever action is deemed necessary with respect to the filing, including, but not limited to, requesting further information from the filing party, the public, or the staff, or prescribing an informal public conference for initial discussion and consultation with the Commission, a Commissioner, or the Staff, concerning the matter(s) raised. In the absence of a notice of proposed rulemaking, any conferences or procedures undertaken pursuant to this section shall not be deemed by the Commission as meeting the requirements of the Administrative Procedure Act with respect to notice of rulemakings, but are to be utilized by the Commission as initial discussions for advice as a means of determining the need for Commission action, investigation or study prior to the issuance of a notice of proposed rulemaking to the extent required by the Administrative Procedure Act, 5 U.S.C. 553.

(c) [Reserved]

(d) A person may not invoke this policy as a means of advocating ex parte before the Commission a position in a proceeding pending at the Commission and any such filing will be rejected. Comments must relate to general conditions in industry or the public or policies or practices of the Commission which may need reform, review, or initial consideration by the Commission.

[Order No. 547, 41 FR 15004, Apr. 9, 1976, as amended by Order 225, 47 FR 19054, May 3, 1982]

STATEMENTS OF GENERAL POLICY AND INTERPRETATIONS UNDER THE FEDERAL POWER ACT

AUTHORITY: Sections 2.2 through 2.13, issued under sec. 309, 49 Stat. 858; 16 U.S.C. 825h, unless otherwise noted.

§ 2.2 Transmission lines.

In a public statement dated March 7, 1941, the Commission announced its determination that transmission lines which are not primary lines transmitting power from the power house or appurtenant works of a project to the point of junction with the distribution system or with the interconnected primary transmission system as set forth in section 3(11) of the Act are not within the licensing authority of the Commission, and directed that future applications filed with it for such licenses be referred for appropriate action to the Federal department having supervision over the lands or waterways involved.

[Order 141, 12 FR 8471, Dec. 19, 1947. Redesignated by Order 147, 13 FR 8259, Dec. 23, 1948]

§ 2.4 Suspension of rate schedules.

The Commission approved and adopted on May 29, 1945, the following conclusions as to its powers of suspension of rate schedules under section 205 of the act:

(a) The Commission cannot suspend a rate schedule after its effective date.

(b) The Commission can suspend any new schedule making any change in an existing filed rate schedule, including any rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, contained in the filed schedule.

(c) Included in such changes which may be suspended are:

(1) Increases.

(2) Reductions.

(3) Discriminatory changes.

(4) Cancellation or notice of termination.

(5) Changes in classification, service, rule, regulation or contract.

(d) An initial rate schedule can be suspended and an interim rate established; both can be made subject to refund.

(e) Immaterial, unimportant or routine changes will not be suspended.

(f) During suspension, the prior existing rate schedule continues in effect and should not be changed during suspension.

(g) Changes under escalator clauses may be suspended as changes in existing filed schedules.

(h) Suspension of a rate schedule, within the ambit of the Commission's statutory authority is a matter within the discretion of the Commission.

(Natural Gas Act, 15 U.S.C. 717-717w (1976 & Supp. IV 1980); Federal Power Act, 16 U.S.C. 791a-828c (1976 & Supp. IV 1980); Dept. of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. IV 1980); E.O. 12009, 3 CFR Part 142 (1978); 5 U.S.C. 553 (1976))

[Order 141, 12 FR 8471, Dec. 19, 1947. Redesignated by Order 147, 13 FR 8259, Dec. 23, 1948, and amended by Order 303, 48 FR 24361, June 1, 1983]

§ 2.5 Filing of rate schedules by public utilities.

(a) The Commission has received a number of inquiries from public utilities who are presently engaged in reviewing the status of their wholesale power sales, in the light of the recent Supreme Court decision in the Colton case, Federal Power Commission v. Southern California Edison Company, 376 U.S. 205, 11 L ed. 2d 638, decided March 2, 1964, as to the manner in which the Commission would expect to treat filings made with it of existing wholesale sales which had not previously been filed with this Commission. In response to such inquiries the Commission believes it appropriate to advise all public utilities that, while it of course cannot prejudge the possible rights of interested third parties, its primary objective is in insuring that the rate schedules for all jurisdictional sales are promptly filed with this agency, as required by law, and that where such rate schedules are filed with this agency by August 1, 1964, it does not intend on its own motion to initiate any inquiry into past failures to file such schedules.

(b) In accordance with this policy the Commission, in the absence of valid objection by any interested party, will permit all existing rate schedules to be filed as initial rate schedules pursuant to the provisions of § 35.1(b) of this chapter and will give favorable consideration to requests pursuant to the provisions of § 35.11 of this chapter to make such schedules effective as of the date of filing or such earlier date as the public utility may show is consistent with the public interest, if such filings are made on or before August 1, 1964. Moreover, while the Commission will carefully review all such filings to insure that they are consistent with the statutory standards, it is contemplated that any Commission action resulting from such review would normally be taken pursuant to the provisions of section 206 of the Federal Power Act.

(c) It is recognized that despite the Supreme Court's latest reiteration of the broad scope of this agency's jurisdiction over wholesale sales of public utilities, there may remain some special situations in which a company engaged in the wholesale sale of electric energy, although it is interconnected with systems in other states directly or indirectly, will wish to contest its jurisdictional status as a public utility or the status of particular sales. However, the Commission's existing procedures provide full protection for such companies since they are free to file their wholesale rates with a reservation of the question of jurisdiction, which could then be adjudicated in an orderly way.

(Sec. 205, 49 Stat. 851; 16 U.S.C. 824d)

[Order 282, 29 FR 5544, Apr. 25, 1964]

§ 2.7 Recreational development at licensed projects.

The Commission will evaluate the recreational resources of all projects under Federal license or applications therefor and seek, within its authority, the ultimate development of these resources, consistent with the needs of the area to the extent that such development is not inconsistent with the primary purpose of the project. Reasonable expenditures by a licensee for public recreational development pursuant to an approved plan, including the purchase of land, will be included as part of the project cost. The Commission will not object to licensees and operators of recreational facilities within the boundaries of a project charging reasonable fees to users of such facilities in order to help defray the cost of constructing, operating, and maintaining such facilities. The Commission expects the licensee to assume the following responsibilities:

(a) To acquire in fee and include within the project boundary enough land to assure optimum development of the recreational resources afforded by the project. To the extent consistent with the other objectives of the license, such lands to be acquired in fee for recreational purposes shall include the lands adjacent to the exterior margin of any project reservoir plus all other project lands specified in any approved recreational use plan for the project.

(b) To develop suitable public recreational facilities upon project lands and waters and to make provisions for adequate public access to such project facilities and waters and to include therein consideration of the needs of physically handicapped individuals in the design and construction of such project facilities and access.

(c) To encourage and cooperate with appropriate local, State, and Federal agencies and other interested entities in the determination of public recreation needs and to cooperate in the preparation of plans to meet these needs, including those for sport fishing and hunting.

(d) To encourage governmental agencies and private interests, such as operators of user-fee facilities, to assist in carrying out plans for recreation, including operation and adequate maintenance of recreational areas and facilities.

(e) To cooperate with local, State, and Federal Government agencies in planning, providing, operating, and maintaining facilities for recreational use of public lands administered by those agencies adjacent to the project area.

(f)(1) To comply with Federal, State and local regulations for health, sanitation, and public safety, and to cooperate with law enforcement authorities in the development of additional necessary regulations for such purposes.

(2) To provide either by itself or through arrangement with others for facilities to process adequately sewage, litter, and other wastes from recreation facilities including wastes from watercraft, at recreation facilities maintained and operated by the licensee or its concessionaires.

(g) To ensure public access and recreational use of project lands and waters without regard to race, color, sex, religious creed or national origin.

(h) To inform the public of the opportunities for recreation at licensed projects, as well as of rules governing the accessibility and use of recreational facilities.

[Order 313, 30 FR 16198, Dec. 29, 1965, as amended by Order 375-B, 35 FR 6315, Apr. 18, 1970; Order 508, 39 FR 16338, May 8, 1974]

§ 2.8 Simplification of wholesale electric rate schedule filings.

(a) In making changes in rate schedules required to be on file with the Commission, public utilities may find it advantageous to file substitute sheets to reflect changes, in lieu of filing rate schedule supplements.

(1) *Identification—substitute sheets.* (i) At the top right of the page, the sheet number may be designated as "—— Revised Sheet No. ——", followed by "Superseding —— Sheet No. ——". The first of these blanks would show the number of the revision (i.e., first, second, etc.) and the sheet number would be the same as the sheet replaced. The third and fourth blanks would be filled according to the numbering of the sheet replaced.

(ii) Sheets which are to be inserted between two consecutively numbered sheets may be designated "Original Sheet No. ——", with the blank space filled with the appropriate number and a letter to indicate an insertion (i.e., between Sheet Nos. 1 and 2, Original Sheet No. 1a).

(iii) Customer agreement, if required, may be indicated on the bottom of the page, by the signature of the person authorized to agree to the proposed change. The name and title of the person authorized to file the substitute sheet may also be shown on the bottom of the page.

(b) Whenever pursuant to § 35.12 of this chapter an initial rate schedule filing is to be made, or whenever pursuant to § 35.13 of this chapter a rate schedule is to be replaced in its entirety or extensively revised (for example if a large number of the pages are to be changed), public utilities may find it advantageous to use a simplified format, such as the following:

(1) *Format.* A brief service agreement setting forth such items as the name of the purchaser, service to be rendered, term of the agreement, and signatures of the parties. Applicable points of delivery and delivery voltages, applicable rates and charges and applicable terms and conditions may be incorporated in the agreement by reference to separate appendices attached thereto as follows:

(i) Appendix setting forth in detail delivery points, delivery voltages and metering voltages.

(ii) Appendix containing a statement of the rates and charges, set forth separately under appropriate headings such as: Demand charges, energy charges, billing demand determinants, power factor clauses, minimum bill provisions, etc.

(iii) Appendix containing terms and conditions, set forth separately under appropriate headings such as: Services, facilities at the points of connection, meter adjustments, continuity of service, liability, etc.

(2) *Identification.* (i) At the top right of the page, the sheet number may be designated as "Original Sheet No. ———".

(ii) Sheets which are to be replaced or inserted may be designated in the same manner suggested in paragraph (a)(1) of this section.

(Secs. 205, 206, 49 Stat. 851, 852; 16 U.S.C. 824d, 824e)

[Order 347, 32 FR 7494, May 20, 1967]

§ 2.9 Conditions in preliminary permits and licenses—list of and citations to "P—" and "L—" forms.

(a) The Commission has approved several sets of standard conditions for normal inclusion in preliminary permits or licenses for hydroelectric developments. In a special situation, of course, the Commission in issuing a permit or license for a project will modify or eliminate a particular article (condition). For reference purposes the sets of conditions are designated as "Forms"—those for preliminary permits are published in Form P-1, and those for licenses are published in Form L's. There are different Form L's for different types of licenses, and the forms have been revised from time to time. Thus at any given time there will be several series of standard forms applicable to the various vintages of different types of licenses. The forms and their revisions are published in the Federal Power Commission reports and citations thereto are listed below.

(b) New or revised forms may be approved after preparation of this list (which is current as of October, 1975) and consequently do not appear herein. Forms currently in use, including those forms which have not yet appeared in the FPC reports, may be obtained from the Federal Power Commission, Office of Public Information, Washington, DC 20426.

(c) Within each of the categories, unless retired, the last-listed form is the one in use at the date of preparation of the list. The dates in the list represent issuance dates of the orders with which the particular forms were first published, or subsequently revised, in the FPC reports.

P-1: Preliminary Permit, 11 F.P.C. 699 (December 2, 1952), 16 F.P.C. 1303 (December 4, 1956), 54 F.P.C. ——— (October —, 1975).

L-1: Constructed Major Project Affecting Lands of the United States, 12 F.P.C. 1262 (September 25, 1953), 32 F.P.C. 71 (July 8, 1964), 54 F.P.C. ——— (October —, 1975).

L-2: Unconstructed Major Project Affecting Lands of the United States, 12 F.P.C. 1137 (August 7, 1953), 17 F.P.C. 62 (January 18, 1957), 31 F.P.C. 528 (March 10, 1964), 54 F.P.C. ——— (October —, 1975).

L-3: Constructed Major Project Affecting Navigable Waters of the United States, 12

F.P.C. 836 (February 6, 1953), 17 F.P.C. 385 (March 4, 1957), 30 F.P.C. 1658 (November 21, 1963), 32 F.P.C. 1114 (October 15, 1964), 36 F.P.C. 971 (December 6, 1966), 40 F.P.C. 1136 (October 29, 1968), 54 F.P.C. —— (October —, 1975).

L-4: Unconstructed Major Project Affecting Navigable Waters of the United States, 16 F.P.C. 1284 (November 29, 1956), 32 F.P.C. 839 (September 21, 1964), 42 F.P.C. 280 (July 30, 1969), 54 F.P.C. —— (October —, 1975).

L-5: Constructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1329 (October 23, 1953), 17 F.P.C. 110 (January 13, 1957), 38 F.P.C. 203 (July 26, 1967), 54 F.P.C. —— (October —, 1975).

L-6: Unconstructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1271 (September 29, 1953), 16 F.P.C. 1127 (October 29, 1956), 31 F.P.C. 284 (February 5, 1964), 34 F.P.C. 1114 (October 7, 1965), 54 F.P.C. —— (October —, 1975).

L-7 (retired): Minor Project Affecting Lands of the United States, 12 F.P.C. 911 (March 30, 1953), 17 F.P.C. 486 (April 2, 1957).

L-8 (retired): Minor-Part Project (Transmission Line), 12 F.P.C. 1017 (June 12, 1953), 41 F.P.C. 217 (March 5, 1969).

L-9: Constructed Minor Project Affecting Navigable Waters of the United States, 32 F.P.C. 577 (August 10, 1964), 54 F.P.C. —— (October —, 1975).

L-10: Constructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 37 F.P.C. 860 (May 9, 1967), 40 F.P.C. 1489 (December 20, 1968), 54 F.P.C. —— (October —, 1975).

L-11: Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 34 F.P.C. 602 (August 26, 1965), 36 F.P.C. 687 (September 26, 1966), 41 F.P.C. 719 (June 6, 1969), 54 F.P.C. —— (October —, 1975).

L-12: Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 35 F.P.C. 875 (June 3, 1966), 40 F.P.C. 1447 (December 10, 1968), 54 F.P.C. —— (October —, 1975).

L-13: (retired): Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce and Affecting Lands of the United States, 42 F.P.C. 367 (August 6, 1969).

L-14: Unconstructed Minor Project Affecting Navigable Waters of the United States, 54 F.P.C. —— (October —, 1975).

L-15: Unconstructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 54 F.P.C. —— (October —, 1975).

L-16: Constructed Minor Project Affecting Lands of the United States, 54 F.P.C. ——(October —, 1975).

L-17: Unconstructed Minor Project Affecting Lands of the United States, 54 F.P.C. ——(October —, 1975).

L-18: Constructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. —— (October —, 1975).

L-19: Unconstructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. —— (October —, 1975).

L-20: Constructed Transmission Line Project, 54 F.P.C. —— (October —, 1975).

L-21: Unconstructed Transmission Line Project, 54 F.P.C. —— (October —, 1975).

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i), as amended, secs. 8, 10, and 16 (52 Stat. 825-826, 830; 15 U.S.C. 717g, 717i, 717o))

[Order 348, 32 FR 8521, June 14, 1967, as amended by Order 540, 40 FR 51998, Nov. 7, 1975; Order 567, 42 FR 30612, June 16, 1977]

§ 2.10 Actions for minimizing the consequences of bulk power supply interruptions or shortages.

Each regional reliability council, and every participating electric utility system therein, investor owned, publicly owned or cooperatively owned, is encouraged to review existing mutual assistance and emergency condition operating procedures among control areas, and to promote the simplification of all such procedures where warranted. In addition, each regional council and participating system that has not already done so, is urged to establish contingency plans for operating in emergency situations, and contingency plans for possible load reduction or curtailment. Also, each regional reliability council and participating system that has not already done so, is urged to establish regional information centers wherein current information will be maintained concerning operable generation and transmission capacity and fuel supplies within the region so that during emergencies the affected utilities can immediately determine the extent and location of likely sources of assistance throughout the region. In this regard, appropriate communication systems and interregional liaison among neighboring regions and utility systems will serve to accomplish similar purposes on an interregional scale. Their full development is encouraged.

[Order 445, 37 FR 782, Jan. 19, 1972, as amended by Order 53, 44 FR 61948, Oct. 29, 1979]

§ 2.11 Reliability and adequacy of electric service.

(a) Participation of Federal Power Commission personnel in regional reliability councils: The Federal Power Commission's responsibilities under section 202(a) of the Federal Power Act, to promote and encourage voluntary efforts by the various segments of the electric utility industry to coordinate their activities, can best be carried out if each regional reliability council or other coordinating organization which is a member of the National Electric Reliability Council permits participation by staff personnel on a nonvoting basis in its deliberations. Accordingly, these organizations are requested to permit nonvoting participation by FPC staff personnel in their principal meetings, and upon occasion, as may be requested by the Chief of the Commission's, Bureau of Power, in their important technical meetings.

(b) Participation of State Commission personnel in regional reliability councils: It is the policy of the Commission that personnel of appropriate State commissions be permitted to participate in the meetings of regional reliability councils or other coordinating organizations which are members of the National Electric Reliability Council on the same basis as personnel of the Federal Power Commission.

[Order 383-2, 35 FR 6123, Apr. 15, 1970, as amended by Order 53, 44 FR 61948, Oct. 29, 1979]

§ 2.12 Calculation of taxes for property of public utilities and licensees constructed or acquired after January 1, 1970.

Pursuant to the provisions of section 441(a)(4)(A) of the Tax Reform Act of 1969, 83 Stat. 487, 625, public utilities and licensees regulated by the Commission under the Federal Power Act which have exercised the option provided by that section to change from flow through accounting will be permitted by the Commission, with respect to liberalized depreciation, to employ a normalization method for computing federal income taxes in their accounts and annual reports with respect to property constructed or acquired after January 1, 1970, to the extent with which such property increases the productive or operational capacity of the utility and is not a replacement of existing capacity. Such normalization will also be permitted for ratemaking purposes to the extent such rates are subject to the Commission's ratemaking authority. As to balances in Account 282 of the Uniform System of Accounts, "Accumulated deferred income taxes—Other property," it will remain the Commission's policy to deduct such balances from rate base in rate proceedings.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i), as amended, Secs. 8, 10, and 16 (52 Stat. 825-826, 830; 15 U.S.C. 717g, 717i, 717o))

[Order 404, 35 FR 7964, May 23, 1970, as amended by Order 567, 42 FR 30612, June 16, 1977]

§ 2.13 Design and construction.

(a) The Commission recognizes the importance of protecting and enhancing natural, historic, scenic, and recreational values at projects licensed or proposed to be licensed under the Federal Power Act.

(b) The Commission has adopted "Guidelines for the Protection of Natural, Historic, Scenic, and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities"[1] as set forth in Order No. 414 issued November 27, 1970. The Commission will consider these guidelines inter alia, in the determination of whether applications for any licenses under the Federal Power Act are best adapted to a comprehensive plan for developing a waterway. The guidelines may be obtained from the Office of Public Information, Federal Power Commission, Washington, DC 20426.

(c) In furtherance of these polices, the Commission will not (1) permit the amendment of any license for the purpose of construction of additional facilities or (2) authorize the disposition of any interest in project lands for construction of any type, unless a showing is made that the construction will be designed to avoid or minimize conflict with the natural, historic, and scenic values and resources of the project area, including compliance with the Commission's "Guidelines for the Protection of Natural, Historic, Scenic, and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities".

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[1] Filed as part of the original document.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i), as amended, Secs. 8, 10, and 16 (52 Stat. 825-826, 830; 15 U.S.C. 717g, 717i, 717o))

[Order 414, 35 FR 18586, Dec. 8, 1970, as amended by Order 567, 42 FR 30612, June 16, 1977]

§ 2.15 Specified reasonable rate of return.

(a) Pursuant to section 10(d) of the Federal Power Act, the Commission has determined that the specified reasonable rate of return used in computing amortization reserves for hydroelectric project licenses shall be calculated annually based on current capital ratios developed from an average of 13 monthly balances of amounts properly includible in the licensee's long-term debt and proprietary capital accounts, as listed in the Commission's Uniform System of Accounts. The cost rate for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10-year constant maturity series) computed on the monthly average for the year in question, plus four percentage points (400 basis points).

(b) The Statement of Policy adopted herein shall be effective upon issuance of this order.

(c) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(d) All requests and suggestions not specifically dealt with herein are hereby denied.

(e) The Secretary is hereby authorized to change the appropriate license article upon application by the licensees to reflect the specified reasonable rate of return as adopted herein.

[Order 550, 41 FR 27032, July 1, 1976]

§ 2.17 Price discrimination and anticompetitive effect (price squeeze issue).

To implement compliance with the Supreme Court decision in *F.P.C.* v. *Con-Way Corp.*, 426 U.S. 271 (1976), aff'g 510 F. 2d 1264 (D.C. Cir. 1975) and to expedite the consideration of price squeeze issues in wholesale electric rate proceedings, the Commission adopts the following procedures for raising price squeeze issues which are to be followed unless they are demonstrated in an individual case to be inadequate:

(a) Any wholesale customer, state commission or other interested person may file petitions to intervene alleging price discrimination and anticompetitive effects of the wholesale rates. In order to have the issue of price discrimination considered in the rate proceeding, the intervening customer or other interested person must support its allegation by a prima facie case. The elements of the prima facie case shall include at a minimum:

(1) Specification of the filing utility's retail rate schedules with which the intervening wholesale customer is unable to compete due to purchased power costs;

(2) A showing that a competitive situation exists in that the wholesale customer competes in the same market as the filing utility;

(3) A showing that the retail rates are lower than the proposed wholesale rates for comparable service;

(4) The wholesale customer's prospective rate for comparable retail service, i.e. the rate necessary to recover bulk power costs (at the proposed wholesale rate) and distribution costs;

(5) An indication of the reduction in the wholesale rate necessary to eliminate the price squeeze alleged.

(b) Where price squeeze is alleged, the Commission shall, in the order granting intervention, direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of the order for the purpose of hearing intervenors' request for data required to present their case, including prima facie showing, on price squeeze issues.

(c) Within 30 days from the date of the conference the filing utility shall respond to the data requests authorized by the Administrative Law Judge.

(d) Within 30 days from the filing utility's response, the intervenors shall file their case-in-chief on price squeeze issues, which shall include their prima facie case, unless filed previously.

(e) The burden of proof (i.e. the risk of nonpersuasion) to rebut the allegations of price squeeze and to justify the proposed rates are on the utility proposing the rates under section 205(e) of the Federal Power Act.

(f) In proceedings where price squeeze is an issue, the Secretary shall include the state commission, agency or body which is responsible for regulation of retail rates in the state affected in the service list maintained under § 385.2010(c) of this chapter.

[Order 563, 42 FR 16132, Mar. 25, 1977, as amended by Order 225, 47 FR 19054, May 3, 1982]

§ 2.18 Phased electric rate increase filings.

(a) In general, when a public utility files a phased rate increase, the Commission will determine the appropriate suspension period based on the total increase requested in all phases. If a utility files a rate increase within sixty days after filing another rate increase, the Commission will consider the filings together to be a phased rate increase request.

(b) This policy will not be applied if the increase is phased:

(1) To coordinate with new facilities coming on line;

(2) To implement a rate moderation plan;

(3) To avoid price squeeze;

(4) To comply with a settlement approved by the Commission; or

(5) If the utility makes a convincing showing that application of the policy would be harsh and inequitable and that, therefore, good cause has been shown not to apply the policy in the case.

[52 FR 11, Jan. 11, 1987]

§ 2.19 State and Federal comprehensive plans.

(a) In determining whether the proposed hydroelectric project is best adapted to a comprehensive plan under section (10)(a)(1) of the Federal Power Act for improving or developing a waterway, the Commission will consider the extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by:

(1) An agency established pursuant to Federal law that has the authority to prepare such a plan, or

(2) A state agency, of the state in which the facility is or will be located, authorized to conduct such planning pursuant to state law.

(b) The Commission will treat as a state or Federal comprehensive plan a plan that:

(1) Is a comprehensive study of one or more of the beneficial uses of a waterway or waterways;

(2) Includes a description of the standards applied, the data relied upon, and the methodology used in preparing the plan; and

(3) Is filed with the Secretary of the Commission.

[Order 481-A, 53 FR 15804, May 4, 1988]

STATEMENTS OF GENERAL POLICY AND INTERPRETATIONS UNDER THE NATURAL GAS ACT

§ 2.51 [Reserved]

§ 2.52 Suspension of rate schedules.

The interpretation stated in § 2.4 applies as well to the suspension of rate schedules under section 4 of the Natural Gas Act.

(Natural Gas Act, 15 U.S.C. 717-717w (1976 & Supp. IV 1980); Federal Power Act, 16 U.S.C. 791a-828c (1976 & Supp. IV 1980); Dept. of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. IV 1980); E.O. 12009, 3 CFR Part 142 (1978); 5 U.S.C. 553 (1976))

[Order 303, 48 FR 24361, June 1, 1983]

§ 2.53 Certificate applications.

The Commission, in a letter dated December 20, 1945, addressed to all natural gas companies, stated in part:

> * * * It has come to the attention of the Commission, * * * that certain natural gas companies subject to the jurisdiction of the Commission have constructed, and in some instances operated, facilities without having received prior authorization required by section 7 of the Natural Gas Act. The Commission, therefore, gives notice to all companies that appropriate action will be taken against any such company constructing or operating facilities in violation of the Natural Gas Act.
>
> The Commission realizes that the problems of the reconversion period came upon the industry suddenly, but believes that the natural gas companies should now be able to plan their construction programs for the reasonable future so as to avoid the filing of multiple applications involving portions of what are essentially single extension projects. Intermittent applications for piecemeal construction are costly in time and money. Moreover, proper planning and timely application for authority to construct new facilities will reduce so-called emergency applications under section 7 of the Natural Gas Act, and thus provide for adequate capacity and service. Time will also be conserved if all applications are supported by complete data.
>
> The Commission recognizes the possibility that natural gas companies may be faced with real emergency situations, and is prepared to act promptly to enable companies to deal with such contingencies when shown to exist and where the public interest demands emergency action.

(Sec. 16, 52 Stat. 830; 15 U.S.C. 717o)

[Order 141, 12 FR 8471, Dec. 19, 1947. Redesignated by Order 147, 13 FR 8259, Dec. 23, 1948]

§ 2.55 Definition of term used in section 7(c).

For the purposes of section 7(c) of the Natural Gas Act, as amended, the word "facilities" as used therein shall be interpreted to exclude:

(a) *Auxiliary installations.* Installations (excluding gas compressors) which are merely auxiliary or appurtenant to an existing transmission pipe line system and which are installed only for the purpose of obtaining more efficient or more economical operation of authorized transmission facilities, such as: valves; drips; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.

(b) *Replacement of facilities.* Facilities which constitute the replacement of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable: *Provided,* That such replacement will not result in a reduction or abandonment of service rendered by means of such facilities: *Provided further,* That such replacement shall have substantially equivalent designed delivery capacity as the particular facilities being replaced.

(c) [Reserved]

(d) *Taps.* Taps on existing transmission pipelines which are installed solely for the purpose of enabling a purchaser or transporter to take delivery of gas from an independent producer as that term is defined in § 154.91 of this chapter.

(Sec. 7, 52 Stat. 824; 15 U.S.C. 717f)

[Order 148, 14 FR 681, Feb. 16, 1949, as amended by Order 220, 25 FR 2363, Mar. 19, 1960; Order 241, 27 FR 510, Jan. 18, 1962; Order 148-A, 38 FR 11450, May 8, 1973]

§ 2.56 Area price levels for natural gas sales by independent producers.

(a) The Commission in its Statement of General Policy No. 61-1 issued September 28, 1960, first amendment thereto issued October 25, 1960, and second amendment thereto issued December 20, 1960, stated in pertinent part:

> This statement establishing rate standards for independent producers of natural gas is issued on our own motion and is based on our experience gained after six years of regulation of independent producers under the Natural Gas Act. By this statement and the appended area price schedules, Table No. 1, we will set standards for initial and increased rate filings by producers for the sale of natural gas into interstate commerce. These standards will serve as a guide to us and to interested parties in determining whether proposed initial rates should be certificated without a price condition and whether proposed rate changes should be accepted or suspended.
>
> * * * * *
>
> * * * It is essential, particularly in the interest of the consumer for whose protection the statute was enacted, that means be found for making the most effective use

possible of the Commission's limited facilities in discharging the new and additional duties called for by the regulation of producers of natural gas. In our opinion, the price standards established by this statement will aid in effectively applying the provisions of the Act to independent producers on a simple, clear and administratively feasible basis, and in a manner fair to all whose interests are affected by Commission regulation. * * *

* * * The geographical areas which we have used are convenient and well known. They are not necessarily in complete accord with geographical and economic factors which may be relevant to the establishment of pricing areas. As experience and changing factors may indicate, we will change or alter these areas from time to time in order to eliminate such inequities as may appear to exist because of our use of geographical boundaries.

In arriving at the price levels for the various areas set forth in the appendix to this statement, we have considered all of the relevant facts available to us. Such consideration included cost information from all decided and pending cases, existing and historical price structures, volumes of production, trends in production, price trends in the various areas over a number of years, trends in exploration and development, trends in demands, and the available markets for the gas. Of necessity, we have not set forth the adjustments to these prices which must be made to take into account every possible provision of every contract which may affect the actual price, such as Btu adjustments, conditions of delivery, etc. The relevance of such adjustments to the basic contract price and the appropriate established price standard must be considered as each filing is made. As it becomes apparent that certain adjustments have general applicability in a specific area, the area price standard will be revised and set forth in greater detail with regard to the exact sale conditions to which the rate applies. We should, however, make it clear that these present price standards apply to pipeline quality gas as that term is generally understood in each area and, except for the Louisiana prices, are inclusive of all taxes.

Two price standards are set for each area. Initial prices in new contracts are, and in many cases by virtue of economic factors, must be higher than the prices contained in old contracts. For this reason, we have found it advisable to adopt two schedules of prices, one pertaining to initial prices in new contracts and one pertaining to escalated prices in existing contracts. It is anticipated that these differences in price levels will be reduced and eventually eliminated as subsequent experience brings about revisions in the prices in the various areas.

* * * * *

These price levels * * * are for the purpose of guidance and initial action by the Commission and their use will not deprive any party of substantive rights or fix the ultimate justness and reasonableness of any rate level. As with the areas, the prices will be adjusted from time to time as such facts as may come before us compel such adjustments. For the present, and in the absence of compelling evidence calling for other action by us, proposed initial sales of natural gas by independent producers which include rates higher than those indicated in Table No. 1 shall be denied a certificate or certificated only upon the condition that lower rates be filed, and all rate changes filed under existing contracts which call for a rate exceeding the indicated price level in Table No. 1 shall be suspended.

TABLE NO. 1—THE AREA RATE LEVELS FOR NATURAL GAS SALES BY INDEPENDENT PRODUCERS

[See footnotes at end of table]

Area	Initial service	Increased	Initial service	Increased
	At 14.65 p.s.i.a.		At 14.73 p.s.i.a.[1]	
Texas, RR. Districts Nos.:				
1	15.0	14.0	15.08	14.08
2	16.0	14.0	16.09	14.08
3	17.0	14.0	17.09	14.08
4	16.0	14.0	16.09	14.08
5	14.50	14.50	14.58	14.58
6	15.0	14.0	15.08	14.08
7-b	14.50	11.50	14.58	11.56
9	14.50	14.50	14.58	14.58
10	17.0	11.0	17.09	11.06
Oklahoma:				
Carter-Knox	16.8	11.0	16.89	11.06
Other	15.0	11.0	15.08	11.06
Panhandle	17.0	11.0	17.09	11.06
Kansas	16.0	11.0	16.09	11.06

TABLE NO. 1—THE AREA RATE LEVELS FOR NATURAL GAS SALES BY INDEPENDENT PRODUCERS—Continued

[See footnotes at end of table]

Area	Initial service	Increased	Initial service	Increased
Wyoming	15.0	[2] 12.7	15.08	[2] 12.74
New Mexico, Permian Basin, Chaves, Eddy and Lea Counties:[2]				
CONTRACTS DATED				
After 12-31-60 (gas well gas)	[4] 15.50	Same	[4] 15.58	Same
Prior to 1-1-61 (gas well gas)	[4] 13.50	Same	[4] 13.57	Same
After 12-31-60 (oil well gas)	[4] 13.50	Same	[4] 13.57	Same
Prior to 1-1-61 (oil well gas)	[4] 13.50	Same	[4] 13.57	Same
Texas, Permian Basin, RR. Districts Nos. 7-c and 8:[3] [3a]				
CONTRACTS DATED				
After 12-31-60 (gas well gas)	[5] 16.50	Same	[5] 16.59	Same
Prior to 1-1-61 (gas well gas)	[5] 14.50	Same	[5] 14.58	Same
After 12-31-60 (oil well gas)	[5] 14.50	Same	[5] 14.58	Same
Prior to 1-1-61 (oil well gas)	[5] 14.50	Same	[5] 14.58	Same
	At 15.025 p.s.i.a.		*At 14.73 p.s.i.a.*[1]	
Colorado	15.0	13.0	14.71	12.74
Mississippi	20.6	14.0	20.20	13.73
New Mexico San Juan Basin	13.0	13.0	12.74	12.74
Louisiana, Northern	17.0	14.0	16.67	13.73
Louisiana, Southern, within State taxing jurisdiction:[3]				
CONTRACTS DATED				
After 9-30-68 (gas well gas)	[5] 20.0	Same	[5] 19.61	Same
1-1-61 to 9-30-68 (gas well gas)	[5] 19.50	Same	[5] 19.12	Same
Prior to 1-1-61 (gas well gas)	[5] 18.50	Same	[5] 18.14	Same
After 9-30-68 (oil well gas)	[5] 18.50	Same	[5] 18.14	Same
1-1-61 to 9-30-68 (oil well gas)	[5] 18.50	Same	[5] 18.14	Same
Prior to 1-1-61 (oil well gas)	[5] 18.50	Same	[5] 18.14	Same
Within the Federal domain:[3]				
CONTRACTS DATED				
After 9-30-68 (gas well gas)	18.50	Same	18.14	Same
1-1-61 to 9-30-68 (gas well gas)	18.0	Same	17.65	Same
Prior to 1-1-61 (gas well gas)	17.0	Same	16.67	Same
After 9-30-68 (oil well gas)	17.0	Same	16.67	Same
1-1-61 to 9-30-68 (oil well gas)	17.0	Same	16.67	Same
Prior to 1-1-61 (oil well gas)	17.0	Same	16.67	Same
	At 15.325 p.s.i.a.		*At 14.73 p.s.i.a.*[1]	
West Virginia	28.0	25.0	26.91	24.03

[1] For conversion factors see: § 2.56(e) General policy and interpretations, rules of practice, and procedure; 18 CFR 2.56(e).

[2] 13 cents at 15.025 p.s.i.a.

[3] Subject to the additional requirements, restrictions and authorizations provided in Opinions Nos. 468, 468–A, 546, and 546–A, as applicable.

[3a] Texas Railroad Commission District No. 8, as referred to herein, includes both the present Texas Railroad Commission District Nos. 8 and 8–A (34 FPC 1078).

[4] Plus applicable State and local production taxes in effect as of Sept. 1, 1965.

[5] Inclusive of tax reimbursement.

Where a proposed price exceeds the indicated rate level and is therefore conditioned or suspended we will, in determining whether the higher price is justified, not necessarily consider only the financial requirements of the individual producer proposing the price but will consider all of the above elements relevant to the industry generally in the area concerned. Similar evidence will also be required from purchasers or their customers who object to any of the price levels or any specific price. Our determination will be in the nature of setting a price for the gas itself from any source questioned and not necessarily a price applicable solely to the party proposing some other price. In this connection we urge that all parties who have any interest in changing an area price join in such a proceeding leading to a determination of a proper revision, if any, in an area price or in the geographical area itself. As there will undoubtedly be numerous parties with an interest in such a proceeding full use should be made of prehearing procedures to reduce the factual issues and consolidate factual presentations to eliminate repetition and duplication of evidence. Because of the impossibility of giving detailed instructions for every proceeding, the precise course of each hearing and the admissibility and relevant weight of each type of evidence must be determined as hearings proceed and we expect to issue additional policy statements from time to time clarifying various aspects of these procedures and principles. The new area rate determinations resulting from such proceedings will represent final determinations of just rates for the areas involved as of the date of the decision and for prior periods.

The initial rates at which sales of natural gas in the Rocky Mountain area are to be certificated, without refund obligations for sales made under contracts dated after October 1, 1968, are set forth in Table No. 1A and, subject to the additional requirements, restrictions, and authorizations provided in the orders issuing such certificates represent the area rate levels for the areas involved until such time as the Commission shall promulgate applicable just and reasonable rates in said area.

TABLE NO. 1A

Rocky Mountain Area	Initial rates in cents per Mcf at 15.025 p.s.i.a. for contracts dated after June 17, 1970[1]
Aneth Field	22.50
San Juan	24.00
Unita-Green River	23.75
Colorado-Julesburg Basin	23.50
Montana-Wyoming	22.75
Montana-Dakota	23.50

[1] The rates reflect the result of approximate and average severance and production tax adjustments.

(b) As a result of our considerable experience with the effects of favored-nation and price redetermination provisions upon independent producer prices, we concluded that acceptance of settlement offers was desirable in the public interest, appropriate to carry out the provisions of the Natural Gas Act, and beneficial to ultimate consumers, pipeline purchasers and independent producers. In view of the foregoing, an adjustment to the price level for increased rates in Texas District Nos. 2, 3, 4, and 6, when coupled with the elimination of price redetermination provisions and favored-nation provisions in existing filed rate schedules appears to be appropriate.

(1) Accordingly, the Commission provides that: For rate schedules from which all price escalation clauses are being eliminated except for provisions for future changes in tax reimbursement, the area price level for increased rates for natural gas sales by independent producers in Texas District Nos. 2, 3, 4, and 6 is 15.08 cents per Mcf at 14.73 p.s.i.a. (15 cents per Mcf at 14.65 p.s.i.a.), including tax reimbursement.

(2) For rate schedules from which all price escalation clauses are being eliminated except for periodic escalation provisions as specified below and provisions for future changes in tax reimbursement, the area price level for increased rates for natural gas sales by independent producers in Texas District Nos. 2, 3, 4, and 6 is 14.68 cents per Mcf at 14.73 p.s.i.a. (14.6 cents per Mcf 14.65 p.s.i.a.), including tax reimbursement: *Provided, however,* That such revised rate schedules may contain escalation clauses providing future separate increases in rate not in excess of 1.01 cents per Mcf at 14.73 p.s.i.a. (1 cent per Mcf at 14.65 p.s.i.a.), the first such escalation not to be tendered for filing prior to the effective date of the 14.68 cents rate and subsequent escalations to be effective under the contract at not less than 5-year intervals thereafter.

(3) Paragraphs (b)(1) and (2) of this section shall not be applicable to a settlement offer unless at least five years remain of the term of the contract comprising the rate schedule sought to be brought within the provisions thereof.

(4) Paragraphs (b)(1) and (2) of this section shall not be applicable to a settlement offer which proposes to eliminate from a rate schedule (contract or agreement) only the right to present tax reimbursement.

(c) As a result of our continuing experience with the effects of favored-nation and price redetermination provisions upon independent producer prices, we conclude that extension of the applicable provisions of the Second Amendment to this Statement, set out in paragraph (b) in this section, to the areas set out below and to the extent there provided is desirable in the public interest, appropriate to carry out the provisions of the Natural Gas Act, and beneficial to ultimate consumers, pipeline purchasers and independent producers. To that end—

(1) For rate schedules from which all price escalations clauses are being eliminated except for provisions for future changes in tax reimbursement, the area price level for increased rates for natural gas sales by independent producers from the various areas covered herein is set forth in column B of Table No. 2.

TABLE NO. 2

Area	A—Cents per Mcf [1] 14.65 p.s.i.a. except as indicated	B—Cents per Mcf [1] 14.65 p.s.i.a. except as indicated	A—Cents per Mcf (at 14.73 p.s.i.a.) [1]	B—Cents per Mcf (at 14.73 p.s.i.a.) [1]
Oklahoma (Panhandle)	11.6	12.0	11.66	12.07.
Oklahoma (Other)	11.6	12.0	11.66	12.07.
Kansas	11.6	12.0	11.66	12.07.
Northern Louisiana	16.3654 (at 15.025 p.s.i.a.) [2].	16.7756 (at 15.025 p.s.i.a.) [2]	16.04 (16.3654 at 15.025 p.s.i.a.) [2].	16.45 (16.7756 at 15.025 p.s.i.a.) [2]
Texas District No. 1	14.6	15.0	14.68	15.08.
Texas District No. 7-B	12.1	12.5	12.17	12.57.
Texas District No. 10	11.6	12.0	11.66	12.07.
West Virginia	25.6276 (at 15.325 p.s.i.a.)	26.0461 (at 15.325 p.s.i.a.)	24.63 (25.6276 at 15.325 p.s.i.a.)	25.03 (26.0461 at 15.325 p.s.i.a.)
Mississippi	14.6154 (at 15.025 p.s.i.a.)	15.0256 (at 15.025 p.s.i.a.)	14.33 (14.6154 at 15.025 p.s.i.a.)	14.73 (15.0256 at 15.025 p.s.i.a.).

[1] Rate includes present tax reimbursement.

[2] Although the announced increased rate ceiling of 14 cents does not include tax reimbursement, the rates listed here do include tax reimbursement.

(2) For rate schedules from which all price escalations are being eliminated except for periodic escalation provisions as hereinafter specified and provisions for future changes in tax reimbursement, the area price level for increased rates for natural gas sales by independent producers from the various areas covered herein is set forth in column A of Table No. 2: *Provided, however,* That such revised rate schedules may contain escalation clauses providing future separate increases in rate not in excess of 1.01 cents per Mcf at 14.73 p.s.i.a. (1 cent per Mcf at 14.65 p.s.i.a.), the first such escalation not to be effective under the contract prior to November 1, 1968, and subsequent escalations to be effective under the contract at not less than 5-year intervals thereafter.

(3) Paragraphs (c)(1) and (2) of this section shall not be applicable to a settlement offer unless at least five years remain of the term of the contract comprising the rate schedule sought to be brought within the provisions thereof.

(4) Paragraphs (c)(1) and (2) of this section shall not be applicable to a settlement offer which proposes to eliminate from a rate schedule (contract or agreement) only the right to present tax reimbursement.

(d)(1) All permanent certificates of public convenience and necessity granting applications filed after April 15, 1965, will contain a condition, substantially in the language set out in paragraph (d)(2) of this section, precluding any filing of an increased rate at a price in excess of those designated in Table No. 3 for the period prescribed therein, unless at the time of filing such certificate application, or within the time fixed in the notice of application for filing protests or petitions to intervene, the applicant indicates in writing that it is unwilling to accept such a condition in which event the application will be set for formal hearing to determine, inter alia, whether any grant of certificate shall be so conditioned.

TABLE NO. 3—RATE LEVELS AND DURATION OF ANTITRIGGERING CONDITION FOR VARIOUS RATE AREAS

Rate area	Antitriggering level[1] cents/Mcf at 14.65 p.s.i.a.	Antitriggering level[1] cents/Mcf at 14.73 p.s.i.a.[2]
Texas, RR Districts Nos.:		
1	17.0	17.09
2	18.0	18.10
3	19.0	19.10
4	18.0	18.10
5	16.50	16.59
6	17.0	17.09
7-b	16.50	16.59
9	16.50	16.59
10	19.0	19.10
Oklahoma:		
Panhandle	19.0	19.10
Other	17.9	18.0
Carter-Knox	18.8	18.90
Kansas	18.0	18.10
	At 15.025 p.s.i.a	*At 14.73 p.s.i.a.*[2]
Louisiana, Northern	20.75	20.34
Mississippi	24.0	23.53
	At 15.325 p.s.i.a	*At 14.73 p.s.i.a.*
West Virginia	30.0	28.84

[1] Effective duration of antitriggering conditions is Jan. 1, 1970, as provided for in Order No. 352, § 2.56(d) (3) and (4) of the Commission's general policy and interpretations, rules of practice, and procedure.

[2] For conversion factors see: 33 FR 14373, 4; 18 CFR 2.56(e).

(2) Standard antitriggering condition:

No increase in rate shall be filed prior to ———— at any price which would exceed the ceiling prescribed for the given area by paragraph (d) of the Commission's Statement of General Policy 61-1, as amended.

(3) All permanent certificates of public convenience and necessity granting applications filed on or after July 1, 1967, will contain a condition, substantially in the language set out in paragraph (d)(4) of this section, precluding any filing of an increased rate at a price in excess of those designated in the table referred to in paragraph (d)(1) of this section, prior to January 1, 1970, unless at the time of filing such certificate application, or within the time fixed in the notice of application for filing protests or petitions to intervene, the applicant indicates in writing that it is unwilling to accept such a condition in which event the application will be set for formal hearing to determine, inter alia, whether any grant of certificate shall be so conditioned.

(4) Standard antitriggering condition: "No increase in rate shall be filed prior to January 1, 1970, at any price which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's Statement of General Policy No. 61-1, as amended."

(e) For purposes of computing any area rate adjustments effectuated pursuant to this section, the following conversion factors with the results rounded to the nearest one-hundredth of a cent, shall be used in converting to the 14.73 p.s.i.a. pressure base prescribed herein:

From 14.65 p.s.i.a. to 14.73 p.s.i.a	1.00546
From 15.025 p.s.i.a. to 14.73 p.s.i.a	0.98037
From 15.325 p.s.i.a. to 14.73 p.s.i.a	0.96117

(f) Special policy for newly-discovered reservoirs on previously committed acreage. (1) In the Permian Basin and Southern Louisiana areas, the rate ceilings set forth in Table 1 of this section applicable to gas-well gas (or residue gas derived therefrom) shall be determined by the date of discovery of such reservoir, in lieu of the contract date, in the case of production on or after November 1, 1969, from a new reservoir on previously committed acreage. In all other areas, the initial rate ceilings set forth in Table 1 of this section shall determine the increased rate ceilings in the case of gas-well gas (or residue gas derived therefrom) produced on or after November 1, 1969, from a reservoir discovered on or after September 28, 1960, on previously committed acreage.

(2) Where a producer is entitled to an increase in the price of its gas based on the date of discovery of the reservoir from which gas-well gas sales (or residue gas derived therefrom) are being made, it may file a proposed price increase pursuant to section 4 of the Natural Gas Act, indicating to what gas the higher price will be applicable. With each filing the producer will include (i) copies of all documents filed with or issued by local or State regulatory agencies relating to the dis-

covery of the reservoir from which the gas is produced, and (ii) a statement by the buyer of the gas that the gas qualifies for the price sought, or why the buyer believes it does not. The producer shall also furnish any additional material in its possession or available to it which the Commission may request in writing. Documents or other data previously filed with this Commission, whether by the producer or another, may be incorporated by reference in any filing hereunder. Similar information shall be filed in any pending section 4 proceeding to which it is relevant. The Commission will follow the determination made by the appropriate State agency in determining the date of discovery of a reservoir. In the event the State agency changes its classification of a reservoir, the Commission shall follow such change as of the date of the new classification. Whenever the reclassification of a reservoir affects the applicable ceiling rate the producer and the buyer shall notify the Commission.

(3) *Reservoirs discovered on or after January 1, 1973.* The rate for new reservoirs discovered on or after January 1, 1973, as a result of a well completion or recompletion commenced prior to January 1, 1973, shall be priced at the rate determined by § 2.56(a)(5).

(g) If the Commission decides to suspend a rate change filing made by an independent producer under section 4(d) of the Natural Gas Act, and such rate change is filed at least 60 days prior to its proposed effective date, the suspension period will be 1 day from the proposed effective date, or 1 day from the date of initial delivery, whichever is later, unless the Commission waives the notice period required herein or imposes a longer suspension period.

(Secs. 4, 5, 7, 52 Stat. 822, 823, 824; 15 U.S.C. 717c, 717d, 717f)

[Statement of General Policy 61-1, 25 FR 13969, Dec. 30, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 2.56, see the List of CFR Sections Affected in the Finding Aids section of this volume.

CROSS REFERENCE: See § 154.109b of this title for definition of "Rocky Mountain area" with respect to an amendment affecting tables 2 and 3 in paragraph (c) and (d) respectively.

§ 2.56a National rates for sales of natural gas from wells commenced on or after January 1, 1973, and certain other sales.

(a) *Base national rates.* Notwithstanding any other provisions of the General Rules of the Federal Power Commission, or the Regulations under the Natural Gas Act, sales of natural gas in interstate commerce which qualify under the provisions of this paragraph may be made at rates herein provided.

(1) Sales of natural gas in interstate commerce for resale may be made at a rate of $1.42 per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this § 2.56a, and the escalation provided in paragraph (a)(2) of this section, provided:

(i) The sale is made from a well commenced on or after January 1, 1975.

(2) The price prescribed by paragraph (a)(1) of this section may be increased by an amount not to exceed 1 cent per Mcf per quarter commencing on October 1, 1976, and the first days of January, April, July, and October of every year, thereafter, for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (a)(1) of this section shall be redetermined according to the provisions of paragraph (m) of this section.

(3) Sales of natural gas in interstate commerce for resale may be made at a rate of $0.93 per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this section, and the escalation provided in paragraph (a)(4) of this section, provided:

(i) The sale is made from a well commenced on or after January 1, 1973, and prior to January 1, 1975.

(4) The price prescribed by this paragraph (a)(3) of this section may be increased by an amount not to exceed 1.0 cent per Mcf per annum commencing on January 1, 1977, and

the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (a)(3) of this section shall be redetermined according to the provisions of paragraph (m) of this section.

(5) Sales of natural gas in interstate commerce for resale may be made at a rate of 52 cents per Mcf (at 14.73 psia), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this § 2.56a, and the escalation provided in paragraph (a)(6) of this section, provided the sale is made pursuant to (i) a replacement contract where the sale was formerly made pursuant to a permanent certificate of unlimited duration under such prior contract which expired by its own term on or after January 1, 1973, or pursuant to a contract executed on or after January 1, 1973, where the prior contract expired by its own terms prior to January 1, 1973; or (ii) contracts for sale of natural gas in interstate commerce for gas from wells commenced prior to January 1, 1973, and not previously sold in interstate commerce prior to January 1, 1973, except pursuant to the provisions of §§ 2.68, 2.70, 157.22 or 157.29 (including sales made pursuant to those sections as modified by Federal Power Commission Order No. 491 et al.); or (iii) a completion operation into a different formerly nonproductive reservoir commenced on or after January 1, 1973, in a well commenced (spudded) prior to January 1, 1973.

(6) The price prescribed by paragraph (a)(5) of this section may be increased by an amount not to exceed 1.0 cent per Mcf per annum commencing on January 1, 1977, and the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce pursuant to the terms of the sales contract until such time as the price prescribed in paragraph (a)(5) of this section shall be redetermined according to the provisions of paragraph (m) of this section.

(b) *Tax adjustments.* The applicable rates prescribed in paragraph (a) of this section shall be adjusted upward for all State or Federal production, severance, or similar taxes, effective the date deliveries are commenced, and shall be adjusted upward by 100 percent of any increase in such taxes subsequent to the date deliveries were commenced, and shall be adjusted downward by 100 percent of any decrease in such taxes subsequent to the date deliveries were commenced.

(c) *Quality adjustments.* For natural gas sold in interstate commerce for resale at any of the rates prescribed in paragraph (a) of this section, quality standards and the resulting adjustments to the base national rate shall be made as follows:

(1) *Btu Adjustment.* (i) For natural gas containing more than 1,000 Btu's per cubic foot, at 60°F. and 14.73 psia, upward adjustments shall be made on a proportional basis from a base of 1,000 Btu's per cubic foot; and for natural gas containing less than 1,000 Btu's per cubic foot, at 60°F. and 14.73 psia, downward adjustments shall be made on a proportional basis from a base of 1,000 Btu's per cubic foot.

(ii) This adjustment shall be made after the rate prescribed in paragraph (a) of this section is adjusted for taxes pursuant to paragraph (b) of this section.

(iii) The Btu content of the natural gas used in computing this rate adjustment shall be the number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of 1.0 cubic foot at a temperature of 60°F. saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32°F. and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

(2) *Other quality adjustments.* All quality standards and the resulting adjustments to the rates prescribed in paragraph (a) of this section shall be made in accordance with the provisions of the particular gas sales con-

tract except that all Btu adjustments shall be governed by paragraph (a)(1) of this section.

(d) *Gathering allowances.* The base national rates prescribed in paragraph (a) of this section, as adjusted for Btu content and applicable taxes, shall be adjusted for gathering activities as follows:

(1) *Appalachian-Illinois basin areas.* The gathering allowance shall be 1.0 cent per Mcf for all sales of natural gas made from wells located in the Appalachian-Illinois Basin Areas.

(2) *Hugoton-Anadarko area.* The gathering allowance shall be the amounts prescribed below where delivery of the gas is made after substantial off-lease gathering by the producer, whether at a plant tailgate or at a central point in the field.

(i) For gas produced in the Panhandle and Hugoton Fields, the allowance shall be 2.5 cents per Mcf.

(ii) For gas produced from fields or reservoirs other than the Panhandle or Hugoton Fields (the "Other Fields"), the allowance shall be 1.0 cent per Mcf.

(3) *Other southwest area.* The gathering allowance shall be the amounts prescribed below where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an off-shore platform on the buyer's pipeline.

(i) For gas produced in the Other Oklahoma Area, Texas Railroad District No. 9, and Northern Arkansas, the allowance shall be 1.5 cents per Mcf.

(ii) For gas produced in Texas Railroad District Nos. 5 and 6, Northern Louisiana, and Southern Arkansas, the allowance shall be 1.0 cent per Mcf.

(iii) For gas produced in Mississippi and Alabama, the allowance shall be 1.25 cents per Mcf.

(4) *Permian basin area.* For gas produced in the Permian Basin Area, the applicable gathering allowance shall be 1.5 cents per Mcf where delivery is made after substantial off-lease gathering by the producer, whether at a plant tailgate or a central point in the field.

(5) *Rocky Mountain area.* For gas produced in the Rocky Mountain Area, the applicable gathering allowance shall be 1.0 cent per Mcf where delivery is made to the buyer at a central point in the field, the tailgate of a processing plant, or a point on the buyer's pipeline.

(6) *Southern Louisiana area.* For gas produced in the Southern Louisiana Area, the applicable gathering allowance shall be 0.5 cent per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(7) *Texas Gulf Coast area.* For gas produced in the Texas Gulf Coast Area, the applicable gathering allowance shall be 0.4 cent per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(e) *Delivery of offshore gas by the producer to an onshore area.* If natural gas produced offshore is delivered onshore, at the sole cost of producer, the uniform national rates shall be adjusted upward 1.0 cent per Mcf for such offshore gas.

(f) *Adjusted national rate.* The uniform national rates prescribed in paragraph (a) of this section, as adjusted pursuant to paragraphs (b), (c), (d), and (e) of this section, are the adjusted national rates, and such rates are applicable only to those jurisdictional sales described in paragraph (a) of this section made within the United States including the adjacent offshore Federal domain but excluding Alaska and Hawaii. No seller may demand or receive any rate or charge in excess of the rates prescribed by paragraph (a) of this section, except for such adjustments described in paragraphs (b), (c), (d), and (e) of this section as may be applicable to the particular sale, unless the Commission after giving proper notice and providing an opportunity for the submission of comments shall modify the rates set forth in paragraph (a) of this section or grant a petition for special relief pursuant to paragraph (g) of this section.

(g) [Reserved]

(h) *Modification of area rate regulations.* To the extent that the Commission's Regulations Under the Natural Gas Act establishing area rates and conditions for sales of natural gas from the Southern Louisiana Area (18 CFR 154.105), Hugoton-Anadarko Area (18 CFR 154.106), Appalachian Basin Area (18 CFR 154.107), Illinois Basin Area (18 CFR 154.109), Other Southwest Area (18 CFR 154.109a), or Rocky Mountain Area (18 CFR 2.56(a), 154.109(b)), and the Permian Basin Area are inconsistent with the provisions set forth above the same are hereby modified to reflect the provisions set forth above. The provisions of the rate structures for these areas are modified only with respect to those sales which are certificated pursuant to the provisions of this section and in all other respects remain in full force and effect. Provisions pertaining to refund credits and contingent escalations are contained in paragraph (i) of this section.

(i) *Waiver of refund credits and contingent escalations.* Any natural gas certificated under the provisions of this section which a natural gas producer elects to have credited against his existing refund obligations in the Southern Louisiana, Texas Gulf Coast, Other Southwest, or Permian Basin areas, or applied to the triggering volumes for the contingent escalations for those areas, shall be priced at the rate prescribed in the applicable area rate opinion and not at the uniform national rates prescribed in this opinion. For purposes of this section the applicable area rate opinions and Commission regulations are:

(1) *Area Rate Proceeding (Texas Gulf Coast Area), et al.*, Opinion No. 595, 45 F.P.C. 675 (1971); 18 CFR 154.109.

(2) *Area Rate Proceeding (Southern Louisiana Area), et al.*, Opinion No. 598, 46 F.P.C. 86 (1971); 18 CFR 154.105.

(3) *Area Rate Proceeding (Other Southwest Area), et al.*, Opinion No. 607A, 47 F.P.C. 99 (1972); 18 CFR 154.109a.

(4) *Area Rate Proceeding (Permian Basin Area II)*, Docket No. AR70-1 (Phase I), Opinion No. 662, 50 F.P.C. 390 (1973).

With respect to gas of a class described in paragraph (a) of this section which is currently being sold in interstate commerce in discharge of a refund obligation or was dedicated to interstate commerce in partial satisfaction of the triggering volumes for the contingent escalations in the described areas, such gas may be sold at the rates prescribed in paragraph (a) of this section only if the seller files a written waiver of the right with respect to such gas to discharge such refund obligations or to trigger the contingent escalations concurrently with the contractually authorized rate increase filing. The seller shall further state the date on which the subject wells were commenced, the present provisions under which the gas is being sold in interstate commerce, the dollar amount of existing refund obligations previously discharged by the sale of such gas, and the volumes (at 14.73 psia) applied to trigger the contingent escalations.

(j) *Effective date of rate filings and waivers of refund credits or contingent escalations.* (1) Any contractually authorized increased rate filing made pursuant to the provisions of this order shall be effective as of July 27, 1976, if the filing is made on or before August 26, 1976, and any filing made thereafter will be subject to the thirty (30) day notice requirement.

(2) A single filing may be made which covers the rates to become effective July 27, 1976, and the 1.0¢ periodic escalations to be effective October 1, 1976, January 1, 1977, April 1, 1977, and July 1, 1977, provided such filing clearly and distinctly shows the rates to be effective on these respective dates.

(3) For those persons desiring to make separate filings to track the 1.0¢ periodic escalations to be effective October 1, 1976, January 1, 1977, April 1, 1977, and July 1, 1977, such filings will be subject to the thirty (30) day notice requirement. Any filings made after August 26, 1976, will be subject to the thirty (30) day notice requirement.

(k) *Pipeline production.* Natural gas production from leases owned by a pipeline or a pipeline affiliate may be priced at the rate prescribed in paragraph (a) of this section pursuant to the provisions of § 2.66(c) of this part (18 CFR 2.66(c)).

(l) *Termination of rate ceiling.* The rates prescribed in paragraph (a) of this section shall remain in effect until such time as rates are established pursuant to paragraph (m) of this section.

(m) *Review of national rate ceiling.* Prior to January 1, 1977, the Commission shall initiate such proceedings as shall be necessary to establish a just and reasonable rate to be effective from the date of establishment of rates by order of the Commission through December 31, 1978, for the sales described in paragraph (a) of this section and for all wells commenced on or after January 1, 1977, and prior to January 1, 1979.

(n) *Revision of § 2.56(h) (18 CFR 2.56(h).* By Opinion No. 699, the Commission promulgated a national rate structure as paragraph (h) of § 2.56 of its General Policy Statements and Interpretations (18 CFR 2.56(h)). By Opinion No. 699-E, said § 2.56(h) was revised and designated as § 2.56a (18 CFR 2.56a). All certificates which may have been issued prior to this date pursuant to § 2.56(h) are hereby amended to reflect the change in codification of the national rate structure.

(o) *Effective date.* The effective date of this § 2.56a is July 27, 1976.

(p) *Reporting requirements on new wells and completions.* Where a producer intends to drill a new well or perform a new completion operation within an established proration unit in the same reservoir, the producer is required to file a rate filing to collect the base rates prescribed in paragraphs (a) (1) and (3) of this section, and such filing shall be accompanied by a statement of eligibility for the rates prescribed in paragraphs (a) (1) and (3) of this section, justifying the need for the drilling of the new well or the performance of the completion operation. With each filing the producer will include as part of his statement of eligibility:

(1) A statement of the producer relating to the need for the drilling of a new well or the performance of a completion operation and the date of such drilling or recompletion,

(2) A statement of the producer relating to the date of the initial drilling or recompletion of the existing well,

(3) Copies of all documents filed with or issued by local or State regulatory agencies relating to the drilling of the new well or the performance of the completion operation,

(4) A statement by the local or State regulatory agencies relating to the need for an additional well or completion operation into the subject reservoir, and

(5) A statement by the buyer of the gas that the gas qualifies for the rates established in paragraphs (a) (1) and (3) of this section, or why the buyer believes it does not.

The producer shall also furnish any additional material in its possession or available to it which the Commission may request in writing. Documents or other data previously filed with the Commission, whether by the producer or another, may be incorporated by reference in any filing hereunder.

(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Opinion 770-A, 41 FR 50231, Nov. 15, 1976, as amended by Opinion 770-A, 42 FR 2954, Jan. 14, 1977; 49 FR 21912, May 23, 1984]

§ 2.56b National rate for sales of natural gas from wells commenced prior to January 1, 1973.

(a) *Base national rate.* (1) Notwithstanding any other provisions of the general rules of the Federal Power Commission, or the regulations under the National Gas Act, sales of natural gas which qualify under the provisions set forth in paragraph (a)(2) of this section may be made in interstate commerce at a rate not to exceed 23.5 cents per Mcf prior to July 1, 1976, and 29.5 cents per Mcf on and after July 1, 1976 (at 14.73 psia and 60°F), exclusive of all State or Federal production, severance or similar taxes, and subject to the adjustments provided in this section.

(2)(i) Sales of natural gas in interstate commerce for resale may be made at the rate prescribed in paragraph (a) (1) of this section provided the sale is made from a well or wells commenced prior to January 1, 1973, unless the rate for such sale is prescribed by a certificate or authorization issued pursuant to rules or regulations set forth in paragraph (a)(2)(ii) of this section or the rate for such sale, as adjusted, prescribed in the area rate opinions and orders described in paragraph (a)(2)(iii) of this section is greater than the rate, as adjusted, prescribed in paragraph (a)(1) of this section.

(ii) The rules and regulations described in paragraph (a)(1) of this section are:

(A) 18 CFR 2.56a;

(B) 18 CFR 2.70(b)(3);

(C) 18 CFR 2.75;

(D) Former 18 CFR 2.76;

(E) Former 18 CFR 2.77;

(F) 18 CFR 157.29; and

(G) 18 CFR 157.40.

(iii) The area rate opinions and orders described in paragraph (a)(1) of this section are:

(A) Appalachian-Illinois Basin Area, Order No. 411, 44 F.P.C. 1112; Order No. 411-A, 44 F.P.C. 1334; Order No. 411-B, 44 F.P.C. 1487 (1970) (Codified as 18 CFR 154.107, 154.108);

(B) Hugoton-Anadarko Area, Opinion No. 586, 44 F.P.C. 761 (1970) (Codified as 18 CFR 154.106);

(C) Other Southwest Area, Opinion No. 607, 46 F.P.C. 900 (1971); Opinion No. 607-A, 47 F.P.C. 99 (1972) (Codified as 18 CFR 154.109a);

(D) Permian Basin Area, Opinion No. 662, 50 F.P.C. 390; Opinion No. 662-A, 50 F.P.C. 932 (1973);

(E) Rocky Mountain Area, Order No. 435, 46 F.P.C. 68 (1971); 46 F.P.C. 620 (1970); Opinion No. 658, 49 F.P.C. 924 (1973); Opinion No. 699-H, —— F.P.C. —— (December 4, 1974) (Codified as 18 CFR 2.56(a) (Table 1A), 154.109b);

(F) Southern Louisiana Area, Opinion No. 598, 46 F.P.C. 86; Opinion No. 598-A, 46 F.P.C. 633 (1971) (Codified as 18 CFR 154.105); and

(G) Texas Gulf Coast Area, Opinion No. 595, 45 F.P.C. 674; Opinion No. 595-A, 46 F.P.C. 827 (1971) (Codified as 18 CFR 154.109).

(b) *Minimum rate.* The minimum rate for natural gas subject to the provisions of this section is 18.0 cents per Mcf (at 14.73 psia and 60°F). The adjustments prescribed in paragraphs (d), (e) and (f) of this section do not apply to such minimum rate. This rate shall be adjusted as prescribed in paragraph (c) of this section. Increases to the minimum rate filed on or after the effective date of this order will be granted notwithstanding contractual provisions to the contrary which are hereby modified pro tanto.

(c) *Production and severance tax adjustments.* The applicable rate prescribed in paragraph (a)(1) of this section shall be adjusted upward for all State or Federal production, severance, or similar taxes, effective the date deliveries are commenced, and shall be adjusted upward by 100 percent of any increase in such taxes subsequent to the date deliveries were commenced, and shall be adjusted downward by 100 percent of any decrease in such taxes subsequent to the date deliveries were commenced.

(d) *Quality adjustments.* For natural gas sold in interstate commerce for resale subject to the rate prescribed in paragraph (a)(1) of this section, quality standards and the resulting adjustments to the base national rate shall be made as follows:

(1) *Btu adjustment.* For natural gas containing more than 1,000 Btu's per cubic foot, at 60° F and 14.73 psia, upward adjustments shall be made on a proportional basis from a base of 1,000 Btu's per cubic foot; and for natural gas containing less than 1,000 Btu's per cubic foot, at 60° F and 14.73 psia, downward adjustments shall be made on a proportional basis from a least of 1,000 Btu's per cubic foot. This adjustment shall be made after the rate prescribed in paragraph (a)(1) of this section is adjusted for taxes pursuant to paragraph (c) of this section. The Btu content of the natural gas used in computing this rate adjustment shall be the number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of 1.0 cubic feet at a temperature of 60° F saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32° F and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

(2) *Other quality adjustments.* All quality standards and the resulting adjustments to the rate prescribed in paragraph (a)(1) of this section shall be made in accordance with the provisions of the particular gas sales contract except that all Btu adjustments shall be governed by paragraph (d)(1) of this section.

(e) *Gathering allowances.* The base national rate prescribed in paragraph (a)(1) of this section, as adjusted for Btu content and applicable taxes, shall be adjusted for gathering activities as follows:

(1) *Appalachian-Illinois Basin Areas.* The gathering allowance shall be 1.0 cents per Mcf for all sales of natural gas made from wells located in the Appalachian-Illinois Basin Areas.

(2) *Hugoton-Anadarko Area.* The gathering allowance shall be the amounts prescribed below where delivery of the gas is made after substantial off-lease gathering by the producer, whether at a plant tailgate or at a central point in the field.

(i) For gas produced in the Panhandle and Hugoton Fields, the allowance shall be 2.5 cents per Mcf.

(ii) For gas produced from fields or reservoirs other than the Panhandle or Hugoton Fields (the "Other Fields"), the allowance shall be 1.0 cents per Mcf.

(3) *Other Southwest Area.* The gathering allowance shall be the amounts prescribed below where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(i) For gas produced in the Other Oklahoma Area, Texas Railroad District No. 9, and Northern Arkansas, the allowance shall be 1.5 cents per Mcf.

(ii) For gas produced in Texas Railroad District Nos. 5 and 6, Northern Louisiana, and Southern Arkansas, the allowance shall be 1.0 cents per Mcf.

(iii) For gas produced in Mississippi and Alabama, the allowance shall be 1.25 cents per Mcf.

(4) *Permian Basin Area.* For gas produced in the Permian Basin Area, the applicable gathering allowance shall be 1.5 cents per Mcf where delivery is made after substantial off-lease gathering by the producer, whether at a plant tailgate or a central point in the field.

(5) *Rocky Mountain Area.* For gas produced in the Rocky Mountain Area, the applicable gathering allowance shall be 1.0 cents per Mcf where delivery is made to the buyer at a central point in the field, the tailgate of a processing plant, or a point on the buyer's pipeline.

(6) *Southern Louisiana Area.* For gas produced in the Southern Louisiana Area, the applicable gathering allowance shall be 0.5 cents per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(7) *Texas Gulf Coast Area.* For gas produced in the Texas Gulf Coast Area, the applicable gathering allowance shall be 0.4 cents per Mcf where the gas is delivered to the buyer at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, or an offshore platform on the buyer's pipeline.

(f) *Delivery of offshore gas by the producer to an onshore area.* If natural gas produced offshore is delivered onshore, at the sole cost of producer, the uniform national rate shall be adjusted upward 1.0 cent per Mcf for such offshore gas.

(g) *Adjusted national rate.* The uniform national rate prescribed in paragraph (a)(1) of this section, as adjusted pursuant to paragraphs (c), (d), (e), and (f), of this section is the adjusted national rate, and such rate is applicable only to those jurisdictional sales described in paragraph (a)(2) of this section made within the United States including the adjacent offshore Federal domain but excluding Alaska and Hawaii. No seller may demand or receive any rate or charge in excess of the rate prescribed by paragraph (a) of this section, except for such adjustments described in paragraphs (c), (d), (e), and (f) of this section as may be applicable to the particular sale, unless the Commission after giving proper notice and providing an opportunity for the submission of comments shall modify the rate set forth in paragraph (a) of this section or grant a petition for special relief pursuant to paragraph (h) of this section.

(h) [Reserved]

(i) *Modification of area rate regulations.* To the extent that the Commission's regulations under the Natural Gas Act establishing area rates and conditions for sale of natural gas from the Southern Louisiana Area (18 CFR 154.105), Hugoton-Anadarko Area (18 CFR 154.106), Appalachian Basin Area (18 CFR 154.107), Illinois Basin Area (18 CFR 154.108), Texas Gulf Coast Area (18 CFR 154.109), Other Southwest Area (18 CFR 154.109a), or Rocky Mountain Area (18 CFR 2.56(a), 154.109(b)), and the Permian Basin Area are inconsistent with the provisions set forth above the same are hereby modified to reflect the provisions set forth above. The provisions of the rate structures for these are modified only with respect to those sales which are covered pursuant to the provisions of this section and in all other respects remain in full force and effect. Provisions pertaining to refund credits and contingent escalations are contained in paragraph (j) of this section.

(j) *Waiver of refund credits and contingent escalations.* Any natural gas certificated under the provisions of this section which a natural gas producer elects to have credited against his existing refund obligations in the Southern Louisiana, Texas Gulf Coast, Other Southwest Area, or the Permian Basin, or applied to the triggering volumes for the Contingent escalations for those areas shall be priced at the rate prescribed in the applicable area rate opinion and not at the uniform national rate prescribed in this opinion. For purposes of this section, the applicable area rate opinions and Commission regulations are:

(1) *Area Rate Proceeding (Texas Gulf Coast Area), et al.*, Opinion No. 595, 45 F.P.C. 675 (1971); 18 CFR 154.109.

(2) *Area Rate Proceeding (Southern Louisiana Area), et al.*, Opinion No. 598, 46 F.P.C. 86 (1971); 18 CFR 154.195.

(3) *Area Rate Proceeding (Other Southwest Area), et al.*, Opinion No. 607-A, 47 F.P.C. 99 (1972); 18 CFR 154.109a.

(4) *Area Rate Proceeding (Permian Basin Area II)*, Docket No. AR70-1 (Phase I), Opinion No. 662, 50 F.P.C. 390 (1973).

With respect to gas of a class described in paragraph (a)(2) of this section which is currently being sold in interstate commerce in discharge of a refund obligation or was dedicated to interstate commerce in partial satisfaction of the triggering volumes for the contingent escalations in the described areas, such gas may be sold at the rate prescribed in paragraph (a) of this section only if the seller files a written waiver of the right with respect to such gas to discharge such refund obligations or to trigger the contingent escalations concurrently with the contractually authorized rate increase filing. The seller shall further state the date on which the subject wells were commenced, the present provisions under which the gas is being sold in interstate commerce, the dollar amount of existing refund obligations previously discharged by the sale of such gas, and the volumes (at 14.73 psia) applied to trigger the contingent escalations.

(k) *Effective date of rate filings and waivers of refund credits or contingent escalations.* Any contractually authorized increased rate filing and/or written waiver of refund credits or contingent escalations made pursuant to the provisions of this order shall be effective as of January 1, 1976, if the filing is made on or before March 31, 1976, and as of the date of filing if the filing is made subsequent thereto. A single filing may be made which covers the rates to become effective January 1, 1976, and the rates to become effective July 1, 1976, provided such filing clearly and distinctly shows the rates to be effective January 1, 1976, and July 1, 1976, respectively. For those persons desiring to make separate filings to track the January 1, 1976, and July 1, 1976, rate increases, such filing shall be made on or before March 31, 1976, and May 31, 1976, to make the rate increases and/or waiver of refund credits or contingent escalation effective as of January 1, 1976, and July 1, 1976, respectively. Any filings made after May 31, 1976, will be subject to the thirty (30) day notice requirements.

(l) *Pipeline production.* Natural gas production not covered by 18 CFR 2.56a from leases acquired after October 7, 1969, by a pipeline or a pipeline affiliate may be priced at the rate prescribed in paragraph (a) of this section, pursuant to the provisions of § 2.66(c) of this part [18 CFR 2.66(c)].

(m) *Termination of rate ceiling.* The rate prescribed in paragraph (a) of this section shall remain in effect until such time as the Commission upon its own motion or application of any person modifies the rates established herein.

(n) The effective date of this § 2.56b is January 1, 1976.

[Opinion 749, 41 FR 2815, Jan. 20, 1976, as amended by Opinion 749-A, 41 FR 9866, Mar. 8, 1976; 49 FR 21912, May 23, 1984]

§ 2.57 Temporary certificates—pipeline companies.

The Federal Power Commission will exercise the emergency powers set forth in the second proviso of section 7(c) of the Natural Gas Act to authorize in appropriate cases, by issuance of temporary certificates, comparatively minor enlargements or extensions of an existing pipeline system. It will not be the policy of the Commission, however, to proceed summarily, i.e., without notice or hearing, in cases where the proposed construction is of major proportions. Pipeline companies are accordingly urged to conduct their planning and to submit their applications for authority sufficiently early so that compliance with the requirements relating to issuance of permanent certificates of public convenience and necessity (when those requirements are deemed applicable by the Commission) will not cause undue delay in the commencement of necessary construction.

(52 Stat. 824; 56 Stat. 83; 15 U.S.C. 717f)

[Gen. Policy 62-1, 26 FR 10098, Oct. 27, 1961]

§ 2.60 Facilities and activities during an emergency—accounting treatment of defense-related expenditures.

The Commission, cognizant of the need of the natural gas industry for advice with respect to the applicability of the Natural Gas Act and the Commission's regulations thereunder regarding activities and operations of natural gas companies taking security measures in preparation for a possible national emergency, sets forth the following interpretation and statement of policy:

(a) *Facilities.* The definition of "auxiliary installations" in § 2.55(a) for which no certificate authority is necessary includes such defense-related facilities as (1) fallout shelters at compressor stations and other operating and maintenance camps; (2) emergency company headquarters or other similar installations; and (3) emergency communication equipment.

(b) The Commission will consider reasonable investment in defense-related facilities, such as those described in paragraph (a) of this section, to be "prudent investment" for ratemaking purposes.

(c) When a person, not otherwise subject to the jurisdiction of the Commission, files an application for a certificate of public convenience and necessity authorizing the construction of facilities to be used solely for operation in a national emergency for the delivery of gas to, or receipt of gas from, a person subject to the Commission's jurisdiction, the Commission will consider a request by such applicant for waiver of the requirement to keep and maintain its accounts in accordance with the Uniform System of Accounts for Natural Gas Companies (Parts 201 and 204 of this chapter) or to file the annual reports to the Commission required by §§ 260.1 and 260.2 of this chapter.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i), as amended, secs. 8, 10, and 16 (52 Stat. 825-826, 830; 15 U.S.C. 717g, 717i, 717o))

[Order 274, 28 FR 12866, Dec. 4, 1963, as amended by Order 567, 42 FR 30612, June 16, 1977]

§ 2.61 Pipeline companies—natural gas reserves—deliverability life.

Simultaneously with its promulgation of the annual report, FPC Form No. 15, to be filed by certain pipeline companies with respect to total gas supply and deliverability (§ 260.7 of this chapter), the Commission issued the following statement of policy:

(a) When a pipeline company has demonstrated through the annual reports filed pursuant to § 260.7 of this chapter that it has an active gas procurement organization and its pipeline system extends into production areas in which exploration is continuing, the twelve-year deliverability life heretofore found to be a primary requisite by the Commission will not necessarily be applied and the Commission's deliverability requirement will be flexible.[1]

(b) Unless otherwise ordered by the Commission, existing pipeline companies will not be required to file information with regard to gas supply and deliverability in support of pipeline system expansions, other than with respect to applications to serve major new markets or to serve existing markets from new sources of gas supply by new routes involving extensive expansion of existing facilities, but may rely on the information set forth in filed annual reports, by reference thereto (§ 157.13(b) of this chapter).

(c) The deliverability life showing of a new pipeline company seeking to initiate service, or of an existing pipeline company seeking to serve major new markets or to serve major existing markets from new sources of supply over new routes will be dependent upon the future availability of gas in its proposed new supply areas, but in no event shall the minimum deliverability life of the incremental supply needed to serve the new or expanded market be less than twelve years.

(Secs. 7, 10(a), 14(a), 52 Stat. 825, 826, 828, 56 Stat. 83; 15 U.S.C. 717f, 717i(a), 717m(a))

[Order 279, 29 FR 4874, Apr. 7, 1964]

§ 2.63 Express refund conditions in certain temporary certificates of public convenience and necessity issued to independent producers of natural gas.

For the purpose of protecting consumers from the exaction of out-of-line rates, temporary certificates authorizing sales of natural gas by independent producers in areas where just and reasonable rates have not been determined will contain an express refund condition fixed at a level 2 cents below the applicable guideline rate set forth in the statement of general policy No. 61-1, as amended (§ 2.56), or the previously determined applicable in-line rate, whichever is lower, together with a proportional adjustment for B.t.u.'s of less than 1,000 per cubic foot, measured on a wet basis.

(Sec. 7, 52 Stat. 825, 56 Stat. 83; 15 U.S.C. 717f(c), 717f(e))

[Order 336, 32 FR 2845, Feb. 14, 1967]

§ 2.64 Independent producers; transfer of producing acreage; procedure.

(a) A natural gas producer who transfers all or part of his producing acreage to another does not have to apply for an amendment to his existing certificate of public convenience and necessity authorizing the sale if the new producer is required to obtain a certificate to sell gas from the property, i.e., in those cases where gas is being produced from the assigned acreage or, if the acreage is nonproductive at the time of transfer if the assignee initiates a sale for resale in interstate commerce. In those cases where the assigned acreage is not productive at the time of transfer, the assignor must obtain Commission authorization to delete such acreage, either pursuant to an application to amend his existing certificate to delete the assigned acreage or by filing an application under section 7(b) of the Natural Gas Act to abandon service from that acreage, unless, within 1 year from the date of the assignment the successor in interest files an application for certificate authorization to sell the gas for resale in interstate commerce.

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[1] "Deliverability" as used herein represents the number of future years during which a pipeline company can meet its annual requirements for its presently certificated delivery capacity from presently committed sources of supply. The availability of gas from these sources of supply shall be governed by the physical capabilities of these sources to deliver gas, by the terms of existing gas-purchase contracts and limitations imposed by state or federal regulatory agencies.

(b) A producer who transfers part of his acreage to a successor must file the instruments of assignment as supplements to his FPC rate schedules, as required by **§ 154.97** of this chapter. The successor producer must obtain certificate approval to continue the sale and must file the gas purchase contracts and instruments of assignment as his own rate schedules, as required by § 154.92(d) of this chapter.

(Sec. 7, 52 Stat. 825, 56 Stat. 83; 15 U.S.C. 717f(c), 717f(e))

[Order 340, 32 FR 5990, Apr. 14, 1967]

§ 2.65 Applications for certificates of public convenience and necessity for gas transmission facilities to be installed in the off-shore southern Louisiana area.

(a) It will be the general policy of the Commission to require that applications for certificates of public convenience and necessity, filed pursuant to section 7(c) of the Natural Gas Act, for the construction and operation of pipeline facilities to be installed in the southern Louisiana offshore area, be filed on or before September 1st of the year immediately preceding the proposed installation. We direct our staff to review these applications on both a joint and individual company basis with a view toward the development of pipeline company gas exchange procedures that will minimize cross-hauls and toward the promotion of joint use arrangements that will assure the early full utilization of large capacity facilities in the Outer-Continental Shelf area. To assist this Commission staff effort, and to aid the Commission's disposition of offshore certificate applications during our formal and statutory hearing procedures, an applicant should include as a part of Exhibit Z to its application, additional information which will:

(1) Detail with appropriate engineering and economic showings the efforts it has made to utilize the existing and proposed offshore facilities owned by other jurisdictional companies to transport Applicant's gas;

(2) Demonstrate that it has consulted with other jurisdictional entities with respect to the possibility of utilizing the proposed facilities to transport gas to onshore installations for such entities;

(3) Utilize 30-inch (or larger if technologically possible) pipe for its offshore main line facilities although upon good cause shown Applicant may demonstrate in the alternative, the feasibility of a smaller proposed line;

(4) Demonstrate that its proposed facilities will be utilized, either by it individually or jointly with other pipeline companies, at a minimum annual load factor of 60 percent of the annual capacity available by the end of a 12-month period following the installation thereof, unless a waiver is issued.

(b) It is the intention of the Commission to enforce the fourth requirement by permitting offshore pipeline facilities, certificated after the date of this order, to be included in Applicant's cost-of-service in future rate proceedings at an average unit cost predicated upon load factors of not less than 60 percent of the annual capacity available.

(Sec. 7, 52 Stat. 824; 15 U.S.C. 717f)

[Order 363, 33 FR 8593, June 12, 1968]

§ 2.66 Pricing of certain new gas produced by pipelines and pipeline affiliates.

(a) As a matter of policy in future pipeline rate proceedings, gas produced by pipelines or by their affiliates from leases acquired after the date of this order will be priced for ratemaking purposes at the just and reasonable area rate applicable to gas of a vintage corresponding to the date of completion of the first well on the lease, otherwise at the "in-line" price, or, if there is no in-line price, on the basis of the guideline price set forth in § 2.56 with the following exceptions:

(1) If a pipeline or pipeline affiliate acquires a developed lease from which jurisdictional sales are being made and paragraph (a)(3) of this section does not apply, the applicable price of gas shall be the lower of (i) the contract price applicable to the gas, or (ii) the applicable area price (or in-line or guideline price);

(2) If a pipeline or pipeline affiliate acquires a developed lease from which nonjurisdictional sales are being made and paragraph (a)(3) of this section does not apply, gas produced from the lease will be priced at the just and reasonable area price applicable to gas of the vintage corresponding to the date of lease acquisition (or in-line or guideline price);

(3) If a pipeline or pipeline affiliate acquires a developed or undeveloped lease, either directly or through intermediaries, from another pipeline or affiliate which owned the lease prior to the date of Opinion No. 568, the lease so acquired after the date of Opinion No. 568 shall be subject to cost-of-service treatment for ratemaking purposes, subject to further determinations in Phase II of these proceedings.

(4) If the pipeline is able to show in a rate proceeding that special circumstances exist which justify different treatment, such a showing should be made by means of a special schedule and supporting evidence filed in addition to the material otherwise required by § 154.63 of this chapter.

(b) Pipelines acquiring production leases subsequent to the date of this opinion either on their own part or through affiliates should:

(1) Where they have their own production, maintain separate subdivisions of their plant and expense accounts related to production properties and production activities, so as to show separately costs related to production from present leases and costs related to production from leases acquired after the date of this opinion;

(2) In making a rate filing, provide additional detail in subdivisions within the production function, i.e., as between gas from present leases and gas from leases acquired after the date of this opinion with respect to their own production and also with respect to any production of their affiliates.

(c) *National rate for pipeline or pipeline affiliate production.* Notwithstanding any other provision of this § 2.66, natural gas production from any lease owned by a pipeline company or a pipeline affiliate, regardless of the date of acquisition of the lease, shall be priced for ratemaking purposes at the rates prescribed in § 2.56a(a) of this part if such production qualifies under the provisions set forth in § 2.56a(a) of this part. The provisions of paragraph (f) of this section (18 CFR 2.56(f)) shall apply to natural gas production which qualifies for the national rate treatment pursuant to this paragraph (c).

(d) *National rate for pipeline or pipeline affiliate production from wells commenced prior to January 1, 1973.* Notwithstanding any other provision of this § 2.66, natural gas production from a lease owned by a pipeline company or a pipeline affiliate may be priced for ratemaking purposes at the rate prescribed in § 2.56B(a)(1) of this part if such production qualifies under the provisions set forth in § 2.56B(a)(2) of this part, if such lease was acquired after October 7, 1969.

(e) *Inapplicability to certain gas produced on or after December 1, 1978.* This section does not apply to natural gas produced on or after December 1, 1978. As to that gas, § 154.42 is applicable.

(Natural Gas Act, 4, 5, and 8; 15 U.S.C. 717c, 717d, 717g (1982))

[34 FR 17804, Nov. 15, 1969, as amended at 35 FR 1104, Jan. 28, 1970; Opinion 749-A, 41 FR 9867, Mar. 8, 1976; Opinion 770-A, 41 FR 50233, Nov. 15, 1976; Order 98, 45 FR 53098, Aug. 11, 1980; Order 391, 49 FR 33858, Aug 27, 1984]

§ 2.67 Calculation of taxes for property of pipeline companies constructed or acquired after January 1, 1970.

Pursuant to the provisions of section 441(a)(4)(A) of the Tax Reform Act of 1969, 83 Stat. 487, 625, natural gas pipeline companies which have exercised the option provided by that section to change from flow through accounting will be permitted by the Commission, with respect to liberalized depreciation, to employ a normalization method for computing Federal income taxes in their accounts and annual reports with respect to property constructed or acquired after January 1, 1970, to the extent to which such property increases the productive or operational capacity of the utility and is not a replacement of existing capacity. Such normalization will also be permitted for ratemaking purposes.

As to balances in Account No. 282 of the Uniform System of Accounts, "Accumulated deferred income taxes—Other property," it will remain the Commission's policy to deduct such balances from the rate base of natural gas pipeline companies in rate proceedings.

(Secs. 3, 4, 5, 8, 9, 10, 15, 16, 301, 304, 308, and 309 (41 Stat. 1063-1066 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 52 Stat. 822, 823, 825, 826; 76 Stat. 72; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i); as amended, secs. 8, 10, and 16 (52 Stat. 825-826, 830; 15 U.S.C. 717c, 717d, 717g, 717h, 717i, 717o))

[Order 404, 35 FR 7964, May 23, 1970, as amended by Order 567, 42 FR 30612, June 16, 1977]

§ 2.69 Guidelines to be followed by natural gas pipeline companies in the planning, locating, clearing and maintenance of rights-of-way and the construction of aboveground facilities.

(a) In the interest of preserving scenic, historic, wildlife and recreational values, the construction and maintenance of facilities authorized by certificates granted under section 7(c) of the Natural Gas Act should be undertaken in a manner that will minimize adverse effects on these values. Accordingly, the Commission believes that the planning, locating, clearing and maintenance of rights-of-way and the construction of aboveground facilities should, as a general practice, conform to the guidelines set forth below. The National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 852, title I, section 102 thereof, directs agencies of the Federal Government to utilize a systematic, interdisciplinary approach which will insure integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making which may have an impact on man's environment. Congress has declared as a national policy the critical importance of restoring and maintaining environmental quality and directed that all practicable means be used to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social and economic requirements of present and future generations of Americans. There is increasing need to fit the construction of pipeline facilities into an overall plan for land development and use in Federal, State, and regional land use planning and development. While these guidelines would require greater advance planning and earlier filing of applications than has been the past practice, it is clear that such earlier planning and filing would generally result in minimizing the time delay caused by considering location as part of an overall plan for land development and use. To the extent landowners may have special interests concerning the planning, locating, clearing and maintenance of rights-of-way and the construction of aboveground facilities on their property, those desires may be taken into account by natural gas companies so long as the result is consistent with local laws relating to land use. These guidelines do not affect an applicant's obligation to comply with the applicable safety regulations of the Department of Transportation, pursuant to the Natural Gas Pipeline Safety Act of 1968.

(1) *Pipeline construction.* (i) In locating proposed facilities, consideration should be given to the utilization, enlargement or extension of existing rights-of-way belonging to either applicant or others, such as pipelines, electric powerlines, highways, and railroads.

(ii) Where practical, rights-of-way should avoid the national historic places listed in the National Register of Historic Places and natural landmarks listed in the National Register of Natural Landmarks maintained by the Secretary of the Interior, and parks, scenic, wildlife, and recreational lands, officially designated by duly constituted public authorities. If rights-of-way must be routed through such historic places, parks, wildlife, or scenic areas, they should be located in areas or placed in a manner so as to be least visible from areas of public view and so far as possible in a manner designed to preserve the character of the area.

(iii) Rights-of-way should avoid heavily timbered areas and steep slopes, where practical.

(iv) Right-of-way clearings should be kept to the minimum necessary width to prevent interference of trees or other vegetation with the construction of proposed transmission facilities.

(v) The method of clearing rights-of-way should take into account matters of soil stability, protection of natural vegetation and the protection of adjacent resources.

(vi) Trees and other vegetation cleared from rights-of-way in areas of public view should be disposed of without undue delay. In all phases of construction, including burning of debris, such measures shall be taken for the prevention and control of fire and other hazards as are required by applicable law and regulations. Tree stumps which are adjacent to roads and other areas of public view should be cut close to the ground or removed.

(vii) Trees and shrubs which are not cleared should not be unnecessarily damaged during construction.

(viii) Efforts should be made to avoid clearance of rights-of-way to the mineral soil, except in the ditch itself. Where this does occur in scattered areas of the rights-of-way, the surface should be restored and stabilized without undue delay.

(ix) Soil which has been excavated during construction and not used should be evenly filled back onto the cleared area or removed from the site. The soil should be graded to comport with terrain of the adjacent land and vegetation planted and fertilized, where appropriate.

(x) Terraces and other erosion control devices should be constructed where necessary to prevent soil erosion on slopes on which rights-of-way are located.

(xi) Where rights-of-way cross streams and other bodies of water, the banks should be stabilized to prevent erosion. Construction on rights-of-way should be conducted in such manner as to keep to a minimum damage to shorelines, recreational areas and fish and wildlife habitats.

(xii) Replacement of earth adjacent to water crossings should be at slopes equal to or less than the normal angle of response for the soil type involved and sandbagging, seeding, or other methods of soil stabilization should be accomplished without undue delay.

(xiii) Blasting should not be done within or near stream channels without prior consultation with Federal and State conservation authorities having jurisdiction to determine what protective measures should be taken to minimize damage to fish and other aquatic life.

(xiv) Any potholes, marshes or similar water areas drained to facilitate construction should be reestablished to their preconstruction water levels and flow characteristics following completion of construction, if such reestablishment is consistent with landowner wishes.

(xv) Cofferdam or other diversionary techniques to lay pipe across streams should be used where necessary and practical to permit flow in one part of the stream while construction work is being performed in another part.

(xvi) Care should be taken to avoid oil spills and other types of pollution while work is performed in streams and other bodies of water and in their immediate drainage areas.

(xvii) Water used for pipeline testing taken from streams or other bodies of water should be taken in such manner as to minimize harm to the ecology, fish and wildlife resources, or aesthetic values of the areas. When testing water is released, it should be done in such a manner as not to cause erosion and siltation or damage to the ecology of the area.

(xviii) Excess construction materials and other debris should be removed from the right-of-way or otherwise suitably disposed of.

(xix) In wooded areas long views of cleared rights-of-way, visible from highways and other areas of public view, should be avoided. The rights-of-way alignment of these locations should be deflected before entering and leaving highways and areas of public view where such deflection is consistent with safe and sound engineering practice and accomplishes the desired results.

(xx) Where practical, rights-of-way should not cross hills and other high points at the crests, particularly where such crossing is in forested areas and clearly visible from highways and other areas of public view. When they must do so the alignment should be deflected near the crests where such deflection is consistent with safe and sound engineering practice and accomplishes the desired result of eliminating the notch in the tree line at the crests.

(xxi) Where rights-of-way enter dense timber from a meadow or other clearing and where such entrance is visible from highways and other areas of public view, screen planting should be employed.

(xxii) Temporary roads used for construction should be designed for proper drainage and built in such manner as to minimize soil erosion. Upon abandonment, such roads should be stabilized without undue delay.

(2) *Right-of-way maintenance.* (i) Once a cover of vegetation has been established on a right-of-way, it should be properly maintained.

(ii) Access roads and service roads should be maintained with proper cover, water bars and the proper slope in order to minimize soil erosion. They should be jointly used with other utilities and land management agencies where practical.

(iii) When chemicals are used for weed control, they should be applied at such time and in such manner as to minimize the impact of temporary discoloration of the foliage. Care should be taken to assure that chemicals used to control the growth of tree stumps do not damage the vegetation or add to water or soil pollution.

(iv) During inspection of rights-of-way attention should be given to locate gullies and fallen timber and to observe the condition of the vegetation. The use of aircraft to inspect and maintain rights-of-way should be encouraged.

(3) *Construction of aboveground appurtenant facilities.* (i) The proposed exterior plans and location of compressor stations and other aboveground facilities, including meter and regulator stations and communication towers, should be made appropriately available to local agencies which have jurisdiction.

(ii) Unobstrusive sites should be selected where practical for the location of aboveground facilities.

(iii) Potential noise should be considered when the location for compressor stations is being determined. Such facilities should be located in areas where sound resonation would be minimal; consideration should be given to the use of accoustical treatment as a further means of noise abatement.

(iv) The size of aboveground facilities should be kept to the minimum feasible.

(v) The exterior of compressor stations and other aboveground facilities, to the extent consistent with the functional needs and economic feasibility of construction of such facilities, should not unduly detract from the surroundings and other buildings in the area.

(vi) In areas adjacent to such aboveground facilities, trees and shrubs should be planted, or other appropriate landscaping installed, in order to enhance the appearance of such facilities, consistent with operating needs.

(vii) Storage tanks should be placed below ground where technology and economics make it feasible.

(viii) Yards and surrounding areas should be kept clean and free of unused or discarded materials.

(ix) The design and operation of aboveground facilities should conform to applicable air and water quality standards.

(Secs. 7(c), 7(e), 52 Stat. 825, 56 Stat. 83, 84; 15 U.S.C. 717(c), 717f(e); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Order 407, 35 FR 11389, July 16, 1970]

§ 2.70 Measures for the protection of reliable and adequate natural gas service.

(a) This Commission, charged with the responsibility for natural gas reliability, hereby promulgates as a statement of general policy that jurisdictional pipeline companies shall take all steps necessary for the protection of as reliable and adequate service as present supplies and capacities will permit during the 1971-72 heating season and thereafter, including adequate injection into storage in anticipation of the heating season.

(b) In order to effectuate the foregoing:

(1) During the storage injection season all natural gas pipelines subject to the jurisdiction of the Commission should make every reasonable effort to fill all storage fields supplied by such pipelines to a capacity sufficient to meet the anticipated heating season demands.

(2)(i) All jurisdictional pipelines will within 30 days hereof, submit a written report (four copies) to the Secretary of the Commission indicating how the instant statement of policy will be implemented. Pipelines responding that curtailment will be necessary will file a tariff sheet, pursuant to sections 4 and 5 of the Natural Gas Act and the Commission's regulations thereunder, setting forth a curtailment plan to effectuate the instant policy or state that the curtailment program, if any, currently on file will effectuate this policy. The curtailment plan proposed may be divided between the injection season and the heating season, since different objectives may require different treatment.

(ii) Consideration should be given to the curtailment of volumes equivalent to all interruptible sales and to the curtailment of large boiler fuel sales where alternate fuels are available.

(3) The Commission, recognizing that additional short-term purchases of natural gas may be necessary to meet a pipeline's system demands for the immediate future, will continue the sixty (60) day emergency sales commenced under § 157.29 (18 CFR 157.29) pursuant to the certification provisions of this subsection. If a pipeline demonstrates continued emergency need, after complying with paragraphs (b) (1) and (2) of this section, the Commission will consider authorizing the pipeline to make gas purchases for a limited term at a rate above the national rate level prescribed in § 2.56(h) (18 CFR 2.56(h)) and will authorize abandonment of the sale at the time the certificate is issued if the same is demonstrated to be in the public interest: *Provided, however,* The certification authority set forth in this section shall apply to sales of natural gas from the offshore Federal domain only where the sales are made at the rate prescribed in § 2.56(h).

(4) Where emergency gas purchases are made and/or a curtailment program is instituted to implement the above policy the pipeline should place, or already have in effect, volumetric limitations on sales at current levels.

(5) Notice should be taken that the Commission will reexamine existing commodity rate levels and, to the extent necessary, may redesign existing commodity-demand rate relationships in present and future pipeline rate cases.

(6) Pipelines who can do so are encouraged to propose exchange arrangements with other pipelines.

(7) Jurisdictional pipelines have the responsibility in the first instance to adopt a curtailment program by filing appropriate tariffs. Such tariffs, if approved by the Commission, will control in all respects notwithstanding inconsistent provisions in sales contracts, jurisdictional and nonjurisdictional, entered into prior to the date of the approval of the tariff.

(c) Nothing stated herein should be construed as placing a limitation on measures to be taken by jurisdictional pipelines to effectuate the instant policy.

(Secs. 4, 5, 7, 8, 10, 16; 52 Stat. 83, 85; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717*o*)

[Order 431, 36 FR 7505, Apr. 21, 1971, as amended by Opinion 699-B, 39 FR 33206, Sept. 16, 1974]

§ 2.71 [Reserved]

§ 2.72 Availability in contested cases of information acquired by staff investigation.

Pursuant to the Commission's authority under the Natural Gas Act, particularly subsection (b) of section 8 thereof, upon request by a party to the proceedings, or as required in conjunction with the presentation of a Commission staff case or staff's cross-examination of any other presentation therein, all relevant information acquired by Commission staff, including workpapers pursuant to any staff investigation conducted under sections 8, 10, or 14 of the Natural Gas Act shall, without further order of the

Commission, be free from the restraints of said subsection (b) of section 8 regarding the divulgence of information, with respect to any matter hereafter set for formal hearing.

(Subsec. (b), sec. 8, 52 Stat. 825, 15 U.S.C. 717g; sec. 16, 52 Stat. 830, 15 U.S.C. 717*o*)

[Order 509-A, 39 FR 31631, Aug. 30, 1974]

§ 2.75 Optional procedure for certificating new producer sales of natural gas.

(a) Notwithstanding any other provisions in the general rules of practice and procedure of the Federal Power Commission, or the regulations under the Natural Gas Act of the Federal Power Commission, applications for certification of future sales of natural gas produced within the United States may, at the option of the signatory parties to sales contracts, be submitted in accordance with the provisions of this section. To the extent that any Federal Power Commission general rules of practice and procedure or regulations under the Natural Gas Act are inconsistent herewith, the same are hereby amended to permit the optional procedure herein set forth.

(b) The provisions of this section shall be available if each of the following conditions exists:

(1) A contract covering the sale of natural gas in interstate commerce has been executed for gas produced from a well or wells commenced after April 6, 1972; or a contract covering the sale of natural gas in interstate commerce has been executed for gas not previously sold in interstate commerce except under the provisions of Orders 402, 418, or 431 issued May 6, and December 10, 1970, April 15, 1971, respectively.

(2) All parties whose gas is to be sold under the terms and conditions of such contract, except for the royalty interest therein, must agree to the submission of the same for certification in accord with the provision of this section.

(3) The purchaser under such contract is a jurisdictional pipeline.

(4) The seller under such contract established that he has discharged, or is prepared by plan or program to discharge, refund obligations in the geographical pricing area in which the seller would commit gas under such contract, prescribed by prior orders or opinion of this Commission. It is provided, however, that any such seller may make the showing here required without prejudice to his claim in any case now pending on judicial review that such obligations were unlawfully imposed by the Commission.

(5) The gas covered by the contract offered for certification is produced from a well or wells commenced on or after April 6, 1972; or the gas offered for certification has not been previously sold in the interstate market (unless abandonment has been previously granted or a sale was made under Orders 402, 418, or 431), nor has an application been previously filed with the Commission for certification of the sale of such gas, except for an emergency sale under Orders 402, 418, or 431.

(c) If all of foregoing conditions precedent exist, the parties to the contract may tender the same to the Commission and request the issuance of a certificate of public convenience and necessity to the seller for sales of natural gas thereunder. Each party to the application shall certify to his portion that all parties to the contract, except those having a royalty interest only, desire certification in accordance with the terms and provisions of this section, that the seller expressly agrees to the waivers and elections hereinafter provided for in paragraphs (m) and (o) of this section, and that all conditions precedent as set forth in paragraph (b) of this section are met.

(d) A certificate of public convenience and necessity issued and accepted under this section shall not be subject to change by determinations or orders whether heretofore made or hereafter to be made in producer or pipeline rate proceedings initiated under section 4 of the Act, and orders issued hereunder shall not constitute establishment of an area or nationwide rate: *Provided, however,* That nothing herein shall limit the applicability of section 5 of the Natural Gas Act. Nothing done hereunder shall be recognized by the Commission as triggering any existing contract escalation clauses.

(e) Applications presented hereunder will be considered for permanent certification, either with or without pregranted abandonment, notwithstanding that the contract rate may be in excess of an area ceiling rate established in a prior opinion or order of this Commission.

(f) No contract shall be accepted for filing if it includes any type of indefinite pricing clause except B.t.u. price adjustment clauses, clauses to reflect changes in State production taxes, and clauses allowing for the recovery of compression and dehydration charges. Indefinite pricing clauses shall include, but are not limited to "area rate or FPC clauses," a "price redetermination or renegotiation clause," or a "special escalation clause."

(g) A seller-applicant under this section shall state the ground for claiming that the present or future public convenience and necessity require issuance of a certificate on the terms proposed in the application, and shall provide factual support for such claims. The application shall contain a contract summary as prescribed in § 250.5 of this title under the Natural Gas Act.

(h) The purchaser under a contract filed under this section shall certify that the present or future public convenience and necessity require issuance of a certificate to the seller, and shall provide information in support of such certification with respect to the purchaser's (1) system-wide supply, (2) present and estimated 3-year peak day and average day demands, (3) present and estimated 3-year requirements of customers on its system, (4) deliverability life, (5) implementation, if any of curtailment plans, (6) emergency purchases of gas under Order 431, or § 157.22 or § 157.29 of these regulations, and (7) purchases of LNG or attachment of other supplemental supplies.

(i) The information required by paragraphs (g) and (h) of this section may be submitted by cross-reference and incorporation of information already on file with the Commission.

(j) Applications requesting issuance of certificates of public convenience and necessity as authorized in this section shall be processed in accordance with the procedural requirements, including those relating to notice, intervention, and hearing, set out in Part 157 of this chapter of the Commission's regulations under the Natural Gas Act.

(k) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a statutory hearing will be held before the Commission without further notice on all applications for certificates under this section in which no petition to intervene in opposition is filed within the time required, if the Commission on its own review of the matter believes that a grant of a certificate is required by the public convenience and necessity. Where the Commission believes that a formal hearing is required notice of such hearing will be duly given.

(l) A final order of this Commission, issuing a certificate as applied for, or issuing a conditioned certificate acceptable to the applicants, shall constitute a final determination that the rates, charges, and services therein specified are just, reasonable, and required by the present and future public convenience and necessity.

(m) By acceptance of a certificate issued hereunder, the seller-applicant unconditionally agrees to (1) waive all rights to seek future rate increases under section 4 of the Natural Gas Act with respect to the contract submitted, other than price escalations, if any, as certificated by the Commission; and (2) waive all rights to contingent adjustment of flowing gas rates as provided by the Commission in area-rate decisions heretofore decided, for flowing gas which the seller-applicant produces in the same geographical pricing area as the pricing area of the production covered by the application made under this section.

(n) Upon the filing of an application under this section, deliveries pursuant to the provisions of the tendered contract may be commenced, pending review of such application by the Commission. Notice of commencement of deliveries shall be given to the Commission within 10 days after deliveries first commence, and shall include all pertinent information concerning the deliveries. Any such deliveries so commenced may be terminated (1) if such contract for any reason shall terminate or be terminated prior to the issuance by the Commission of a final order upon review of such application, or (2) upon the issuance of a certificate containing conditions unacceptable to the party adversely affected. If the Commission by final order shall deny such application, or if the party or parties to the contract adversely affected shall not accept the terms and conditions prescribed by the Commission, deliveries thereunder shall be terminated. Within 30 days after termination of deliveries, the seller shall notify the Commission of such termination, and shall report the date of termination, volumes delivered, and revenues received.

(o)(1) If the parties elect to commence deliveries as set forth in paragraph (n) of this section, such deliveries will be made at rates no higher than the prevailing nationwide ceiling rate and shall so continue for 9 months.

(2) If the Commission determines that it will not be able before the expiration of the 9-month period to issue its final order, it may issue an order extending the 9-month period until such final order is issued. Deliveries during the period of the extension will continue to be made at rates no higher than the prevailing nationwide rate.

(3) If the final Commission order establishes a just and reasonable rate in excess of the prevailing nationwide rate which was charged during the period of any extension under paragraph (o)(2) of this section, the applicant may recoup by means of a surcharge the excess of (i) the amount which would have been collected had such just and reasonable rate been in effect during such period over (ii) the amount actually collected during such period, plus interest on such excess. The surcharge shall be collected over such period and in such manner as the Commission prescribes in its final order.

(4) If the Commission does not extend the 9-month period in the accordance with paragraph (o)(2) of this section, then at the end of such 9-month period (if the Commission has not made its final order), the seller upon the filing of a notice of change in rate pursuant to § 154.94 of this chapter of the Commission's regulations shall be entitled to receive without refund obligation and the purchaser shall be entitled to pay, the rates specified in the contract initially filed, and such contract rates shall continue as the effective rates until the Commission enters its final order on the certificate application.

(p) No application can be filed under this section after May 8, 1984.

(Secs. 4, 5, 7, 16; 52 Stat. 822, 823, 824, 825, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72, 15 U.S.C. 717c, 717d, 717f, 717o)

[Order 455, 37 FR 16196, Aug. 11, 1972, as amended by Order 455-A, 37 FR 18723, Sept. 15, 1972; Order 455-B, 39 FR 41840, Dec. 3, 1974; Order 455-C, 43 FR 23565, May 31, 1978; 49 FR 21913, May 23, 1984]

§ 2.76 Regulatory treatment of payments made in lieu of take-or-pay obligations.

With respect to payments made to a first seller of natural gas as consideration for waiving or revising any agreement for the first sale of natural gas, as defined by section (2)(21) of the Natural Gas Policy Act (NGPA), the Commission sets forth the following statement of general policy and interpretation of law.

(a) *Payments in consideration.* A first seller of natural gas that receives payments as consideration for amending or waiving the take-or-pay or similar minimum payment provisions of a contract for the first sale of natural gas is not in violation of section 504(a) of the NGPA.

(b) *Recovery in rates.* A pipeline that makes any payments referred to under paragraph (a) of this section, to first sellers may file to recover such costs in any section 4(e) rate filing other than a filing to recover purchased gas costs.

(c) *Case-specific review.* A pipeline's method of recovering these costs and how it should apportion them among customers will be addressed on a case-by-case basis in the context of individual rate case filings.

(d) *Customers' rights.* When a pipeline seeks to recover payments referred to under paragraph (a) of this section, its customers will have the full opportunity contemplated by section 4 of the Natural Gas Act to raise questions as to the prudence of such payments, the apportionment of costs among customers proposed by the filing pipeline, and any other reasonably related matters.

(e) *Certificate amendments and abandonment.* With regard to natural gas the sale of which is subject to the Commission's jurisdiction under the Natural Gas Act, if any payments referred to under paragraph (a) of this section are accompanied by a change in or a termination of, the first seller's contractual obligation to provide natural gas service, the Commission will, as a general policy under sections 7(c) and 7(b) of the Natural Gas Act, expeditiously grant any certificate amendments or abandonment authorizations, required to effectuate such contractual or service modifications.

In cases where a producer abandonment application is based on payments made pursuant to this policy statement, the interstate pipeline making the payments will be deemed to have waived any right to oppose the abandonment.

[50 FR 16080, Apr. 24, 1985, as amended by Order 436, 50 FR 42487, Oct. 18, 1985]

§ 2.77 Policy on expedited producer abandonment.

(a) *Situations in which expedited producer abandonment will be appropriate.* Abandonment, including partial or temporary abandonments, of service by a producer will be reviewed on an expedited case-by-case basis and will be granted where permitted by the public convenience and necessity, in cases where:

(1) The producer is subject to substantially reduced takes without payment; or

(2) The parties have entered into a take-or-pay buy-out pursuant to § 2.76.

(b) *Procedures.* (1) Applications will be noticed promptly and a period not to exceed 15 days after publication of the notice in the FEDERAL REGISTER will be provided for comments or interventions.

(2) In cases where the applications are unopposed, as a matter of policy they will be promptly granted by the Director, Office of Pipeline and Producer Regulation, pursuant to delegation of authority contained in 18 CFR 375.307 (1985).

(3) In cases where certificate or abandonment applications are opposed, the Commission will consider the objections and rule on the applications if possible or, if necessary will set the applications for expedited hearing. The Commission will require that initial decisions be issued not more than 60 days following the close of the record and will endeavor to issue a final decision within 60 days following issuance of the initial decision.

(4) Parties requesting expedited consideration under these procedures should include in their application a request for expedition and a reference to Docket No. RM85-1-000.

[Order 436, 50 FR 42487, Oct. 18, 1985, as amended at 50 FR 52274, Dec. 23, 1985]

§ 2.78 Utilization and conservation of natural resources—natural gas.

(a)(1) The national interests in the development and utilization of natural gas resources throughout the United States will be served by recognition and implementation of the following priority-of-service categories for use during periods of curtailed deliveries by jurisdictional pipeline companies:

(i) Residential, small commercial (less than 50 Mcf on a peak day).

(ii) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection requirements.

(iii) All industrial requirements not specified in paragraph (a)(1)(ii), (iv), (v), (vi), (vii), (viii), or (ix) of this section.

(iv) Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(v) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(vi) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(vii) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(viii) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(ix) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(2) The priorities-of-deliveries set forth above will be applied to the deliveries of all jurisdictional pipeline companies during periods of curtailment on each company's system; except, however, that, upon a finding of extraordinary circumstances after hearing initiated by a petition filed under § 385.207 of this chapter, exceptions to those priorities may be permitted.

(3) The above list of priorities requires the full curtailment of the lower priority category volumes to be accomplished before curtailment of any higher priority volumes is commenced. Additionally, the above list requires both the direct and indirect customers of the pipeline that use gas for similar purposes to be placed in the same category of priority.

(4) The tariffs filed with this Commission should contain provisions that will reflect sufficient flexibility to permit pipeline companies to respond to emergency situations (including environmental emergencies) during periods of curtailment where supplemental deliveries are required to forestall irreparable injury to life or property.

(b) Request for relief from curtailment shall be filed under § 385.1501 of this chapter. Those petitions shall use the priorities set forth in (paragraph (a)(1) of this section) above, the definitions contained in paragraph (b)(3) of this section and shall contain the following minimal information:

(1) The specific amount of natural gas deliveries requested on peak day and monthly basis, and the type of contract under which the deliveries would be made.

(2) The estimated duration of the relief requested.

(3) A breakdown of all natural gas requirements on peak day and monthly bases at the plantsite by specific end-uses.

(4) The specific end-uses to which the natural gas requested will be utilized and should also reflect the scheduling within each particular end-use with and without the relief requested.

(5) The estimated peak day and monthly volumes of natural gas which would be available with and without the relief requested from all sources of supply for the period specified in the request.

(6) A description of existing alternate fuel capabilities on peak day and monthly bases broken down by end-uses as shown in paragraph (b)(3) of this section.

(7) For the alternate fuels shown in paragraph (b)(5) of this section, provide a description of the existing storage facilities and the amount of present fuel inventory, names and addresses of existing alternate fuel suppliers, and anticipated delivery schedules for the period for which relief is sought.

(8) The current price per million Btu for natural gas supplies and alternate fuels supplies.

(9) A description of efforts to secure natural gas and alternate fuels, including documentation of contacts with the Federal Energy Office and any state or local fuel allocation agencies or public utility commission.

(10) A description of all fuel conservation activities undertaken in the facility for which relief is sought.

(11) If petitioner is a local natural gas distributor, a description of the currently effective curtailment program and details regarding any flexibility which may be available by effectuating additional curtailment to its existing industrial customers. The distributor should also provide a breakdown of the estimated disposition of its natural gas estimated to be available by end-use priorities established in paragraph (a)(1) of this section for the period for which relief is sought.

(c) When used in paragraphs (a) and (b) of this section, the following terms will be defined as follows:

(1) *Residential.* Service to customers which consists of direct natural gas usage in a residential dwelling for space heating, air conditioning, cooking, water heating, and other residential uses.

(2) *Commercial.* Service to customers engaged primarily in the sale of goods or services including institutions and local, state, and federal government agencies for uses other than those involving manufacturing or electric power generation.

(3) *Industrial.* Service to customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power.

(4) *Firm service.* Service from schedules or contracts under which seller is expressly obligated to deliver specific volumes within a given time period and which anticipates no interruptions, but which may permit unexpected interruption in case the supply to higher priority customers is threatened.

(5) *Interruptible service.* Service from schedules or contracts under which seller is not expressly obligated to deliver specific volumes within a given time period, and which anticipates and permits interruption on short notice, or service under schedules or contracts which expressly or impliedly require installation of alternate fuel capability.

(6) *Plant protection gas.* Is defined as minimum volumes required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of an alternate fuel. This includes the protection of such material in process as would otherwise be destroyed, but shall not include deliveries required to maintain plant production. For the purposes of this definition propane and other gaseous fuels shall not be considered alternate fuels.

(7) *Feedstock gas.* Is defined as natural gas used as raw material for its chemical properties in creating an end product.

(8) *Process gas.* Is defined as gas use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics. For the purposes of this definition propane and other gaseous fuels shall not be considered alternate fuels.

(9) *Boiler fuel.* Is considered to be natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity.

(10) *Alternate fuel capabilities.* Is defined as a situation where an alternate fuel could have been utilized whether or not the facilities for such use have actually been installed; *Provided, however,* Where the use of natural gas is for plant protection, feedstock, or process uses and the only alternate fuel is propane or other gaseous fuel then the consumer will be treated as if he had no alternate fuel capability.

(Sec. 4, 52 Stat. 822, 76 Stat. 72 (15 U.S.C. 717c); Sec. 5, 52 Stat. 823 (15 U.S.C. 717d); Sec. 7, 52 Stat. 824, 825, 56 Stat. 83, 84, 61 Stat. 459 (15 U.S.C. 717f); Sec. 10, 52 Stat. 826 (15 U.S.C. 717i); Sec. 14, 52 Stat. 820 (15 U.S.C. 717m); Sec. 15, 52 Stat. 829 (15 U.S.C. 717n); Sec. 16, 52 Stat. 930 (15 U.S.C. 717o); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Order 467A, 38 FR 2171, Jan. 22, 1973, as amended by Order 467B, 38 FR 6386, Mar. 9, 1973; Order 493-A, 38 FR 30433, Nov. 5, 1973; Order 467-C, 39 FR 12984, Apr. 10, 1974; Order 225, 47 FR 19055, May 3, 1982]

§ 2.79 Policy with respect to certification of pipeline transportation agreements.

(a) The national interest in the protection of natural gas service to consumers who use natural gas for high priority end uses during periods of curtailed deliveries by jurisdictional pipeline companies will be served by the Commission's accepting for filing and approving, if required by the present or future public convenience and necessity, applications for certificates of public convenience and necessity filed by natural gas companies to transport gas sold by producers of natural gas from both the on-shore domain (both federal and non-federal) and/or the off-shore non-federal domain directly to non-resale industrial and commercial customers for Priority 2 uses or for those Priority 3 uses that would otherwise have been in Priority 2 had the gas been purchased on a firm basis.

(b) As used in this section, the term "natural gas company" is used to refer to any person engaged in, or who proposes to engage in, the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission under section 1(b) of the Natural Gas Act and which has available unused capacity to transport such natural gas.

(c) As used in paragraph (a) of this section, Priorities 2 and 3 uses refer to the uses covered by Priorities 2 and 3 as set forth in § 2.78 of the Commission's General Policy and Interpretations, § 2.78(a) for which there exists no alternate fuel capabilities, as defined in § 2.78(c)(10).

(d) This policy is not intended to apply to gas which is already committed to jurisdictional pipelines under an advance payment plan, or to gas sold by an affiliate of a jurisdictional pipeline, or to gas sold by a producing division of a jurisdictional pipeline.

(e) This policy is intended to apply only to those existing industrial and commercial consumers whose deliveries for the high priority uses specified in paragraph (a) of this section are curtailed because of curtailments by their jurisdictional pipeline supplier, or whose deliveries for such high priority uses are subject to imminent curtailment because of curtailments by their jurisdictional supplier, when no other reasonable method of averting an emergency exists; *Provided*, That, unless authorized to the contrary pursuant to paragraph (f) of this section, the volume which is transported shall be the lesser of existing contract quantities, or existing requirements, for high priority uses described in paragraph (a) of this section; *Provided further*, That the gas which is transported shall not be used directly or indirectly to supply uses other than the high priority uses specified in paragraph (a) of this section; *Provided further*, That the gas may be used during an authorized six month extension of the transportation authorization.

(f) In those cases in which arrangements cannot be made to vary the volumes of gas transported as the level of curtailment of gas used for the high priority purposes specified in paragraph (a) of this section fluctuates, it will be our policy to issue transportation certificates upon the condition that the non-resale industrial or commercial consumer agree to reduce the volumes he would receive under the curtailment plan of his existing natural gas supplier(s) for the high priority uses specified in paragraph (a) of this section to the extent that the volumes of gas transported under the transportation certificate exceeds the volumes of curtailment experienced by that customer in the eligible Priority 2 or 3 categories.

(g) All applications for a transportation certificate must be accompanied by the fee prescribed in Part 381 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter, and the following information in addition to any other information submitted in support of the application:

(1) Interstate pipelines transporting gas pursuant to this policy must file the information set forth in paragraphs (g)(1) (i) through (vii) of this section. Intrastate pipelines transporting gas pursuant to this policy may file either a joint application with the interstate pipeline or an abbreviated application as provided in § 157.7, including the information set forth in paragraph (g)(1)(viii) of this section.

(i) Indicate volumes to be transported on a peak day, average day and annual basis;

(ii) Indicate the pipeline capacity available to perform the transport service on a peak day, average day and annual basis;

(iii) Indicate the impact of the proposed transport on the pipeline's ability to provide systemwide deliveries for Priority 1 requirements;

(iv) Provide a copy of the proposed transportation agreement, indicating the proposed transportation rate together with a breakdown and justification of the proposed rate level. Include therein, a comparison of existing transportation rates for comparable services;

(v) Provide a detailed explanation as to why the subject natural gas supply was not secured as part of the pipeline's system gas supply;

(vi) Provide an analysis as to how the gas transported will modify curtailments during the period of the proposed transport to the direct industrial consumer and/or the distributor customers involved in the transaction;

(vii) Indicate the distributor's capacity to perform the transport service on a peak-day, average-day, and annual basis through the distribution system to the non-resale high priority industrial or commercial customer whose gas is being transported pursuant to this policy statement.

(viii) Provide a general description of the facilities and specify their location or include a map thereof; provide a statement concerning their proposed rates and Schedules L, M and N of § 154.63. For purposes of this paragraph (g)(1)(viii), there is no requirement that omission of other filing requirements be justified. For purposes of this paragraph (g)(1)(viii), the following provisions are waived:

(A) 18 CFR Part 154—Rate Schedules and Tariffs;

(B) 18 CFR 157.13—Form of exhibits to be attached to applications;

(C) 18 CFR 157.14—Exhibits;

(D) 18 CFR Part 159—Fees and annual charges under the Natural Gas Act;

(E) 18 CFR Part 201—Uniform system of accounts for natural gas companies; and

(F) 18 CFR Part 260—Statements and reports (schedules).

(2) Non-resale industrial and commercial consumers whose gas is transported pursuant to this policy must:

(i) Indicate volumes of natural gas to be purchased under the proposed transport on a peak day and average day for each month of the proposed transport period;

(ii) Indicate the proposed end-use of such consumption by end-use priorities contained in § 2.78(a) for each month;

(iii) Indicate the total end-use requirements for natural gas at the plant location which the transport gas will be used;

(iv) Indicate the availability of other sources of natural gas at this location. Specify daily contract volumes, type of contract and anticipated availability of natural gas from each source for the transport period and the end-use thereof;

(v) Provide a copy of the gas purchase contract with the producer underlying the proposed transportation, including the Btu content of the gas supply;

(vi) Provide a detailed description of the nature of the emergency necessitating the authorization of the proposed transportation including but not limited to the curtailment anticipated with respect to each priority of end use at the plant.

(vii) Provide a sworn statement by the consumer, supported by substantial evidence, that it has made a good faith effort to inquire into alternate fuel capability and conversion potential and further that it cannot develop such capability during the proposed use of 533 supplies;

(viii) Provide a complete description of the end use application and the facility in which the gas will be utilized, e.g., size and type of burner(s);

(ix) Provide a map showing the location of the wells and description of the acreage involved, along with the location of the nearest interstate and intrastate transportation facility;

(x) Provide available information as to whether or not gas has previously been sold from the acreage, if so, to whom, through what facilities and at what prices.

(xi) Provide available information as to:

(A) The ownership of adjoining acreage, and if productive, information as to whom the gas is being sold, and at what price;

(B) The current price, terms, and conditions of intrastate purchases for comparable gas produced within the immediate vicinity;

(C) Negotiations for the sale of the supply to any other purchaser (intrastate or interstate) and the suggested price;

(xii) If an intermediary participates in the transaction between the industrial customer and the producer and charges a fee, indicate the amount of the fee and terms of payment and the intermediary's affiliation, if any, with the producer and/or pipeline;

(xiii) If either the producer or the industrial customer assumes the cost of the construction of any gathering facilities in order to consummate the purchase, provide the cost, terms of payment, ownership and date of construction of the facilities.

(3) The information required by paragraphs (g)(2)(i) through (xiii) of this section may be supplied by the applicant for a transportation certificate through submission of an appropriate affidavit from the non-resale industrial and commercial consumer whose gas is transported pursuant to this policy.

(h) It will be our policy to attach as a condition to any transportation certificate we issue the following conditions:

(1) For each certificated transportation arrangement the delivering natural gas companies shall submit a monthly report to the Commission indicating the name of the producer, the volumes transported, the point of delivery to the distributor and/or non-resale industrial or commercial consumer, the name of the distributor and/or ultimate non-resale industrial or commercial consumer. An original and four copies of each such report shall be filed within 20 days after the end of each month included in the term of the transportation certificate. The delivering natural gas company shall submit a monthly report for any month during which gas was not transported.

(2) Each non-resale industrial or commercial consumer must provide the transporting natural gas company with a monthly report which shall be transmitted by the natural gas company to the Commission as an attachment to the report described in paragraph (h)(1) of this section. The report required by this subsection must contain the amount of natural gas consumed during the month covered by the report, the end-use of such consumption according to the end-use priorities contained in § 2.78, the amount of natural gas consumed from other sources during the month, the end-use of the gas from those other sources together with a list of those other sources.

(i) Any transportation certificate we issue pursuant to this statement of policy will be limited to a maximum term of two years which will cover two successive heating seasons.

(j) If an industrial consumer is unable to receive gas supplies for which it has paid under the take-or-pay provision in the underlying sales contract, the transporting pipelines may file a request for a six-month extension of the certificate authorization. The request shall include a statement of the undelivered volumes and the time necessary to complete delivery thereof. Upon receipt of a letter from the Secretary of the Commission acknowledging the filing, the requested extension shall be deemed approved.

(k) *Outstanding certificates.* Any holder of a certificate issued pursuant to this section may file a blanket application to amend the certificates by replacing any end-use restrictions with limitations as provided in paragraph (m) of this section.

(l) *New certificates.* (1) In any certificate issued pursuant to this section after October 5, 1979, the Commission intends to incorporate the limitations contained in paragraph (m) instead of a condition incorporating paragraphs (e) and (f).

(2) Each certificate shall specify a maximum daily volume authorized to be transported under the certificate issued pursuant to this section which does not exceed the customer's requirements for uses specified in paragraph (a) of this section.

(m) *Volumetric and End-Use Restrictions*—(1) *Inapplicability of certain use and volumetric restrictions.* Except as provided in paragraph (m)(2), a certificate issued under this section to which this paragraph applies:

(i) Does not limit the customer from purchasing any volumes of natural gas from its suppliers which does not exceed its normal entitlement, and

(ii) Does not impose any end-use restriction upon the natural gas transported under the certificate.

(2) *Volumetric limitations.* The customer's aggregate supply volumes may not exceed the greater of:

(i) The customers high priority requirements, or

(ii) The sum of:

(A) The customer's normal entitlement, plus

(B) The fuel oil displacement volume authorized to be delivered under Subpart F of Part 284, plus

(C) The direct sale volumes authorized to be delivered under certificates issued pursuant to Subpart E of Part 157.

(n) *Definitions*—For the purpose of this section:

(1) "Aggregate supply" means the total volume of natural gas actually received by a customer from all sources including system supplies, direct sales, and the supplemental supplies of the local distribution company.

(2) "Normal entitlement" means the volume of natural gas that the consumer would have been entitled to receive from its supplier if the consumer had not received natural gas under any certificate issued pursuant to this section.

(3) "High priority requirements" means the aggregate volume of natural gas requirements for any use:

(i) Specified in paragraph (a) of this section; or

(ii) Certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" pursuant to section 401(c) of the Natural Gas Policy Act of 1978; or

(iii) By a person who uses natural gas in a hospital or school or similar institution as defined in § 281.103(a) (11) and (12) of this chapter; or

(iv) Certified by the Secretary of Energy as an "essential industrial process or feedstock use" pursuant to section 402(c) of the Natural Gas Policy Act of 1978.

(4) "Supplier" means:

(i) An interstate pipeline in the case of a direct industrial customer, or

(ii) A local distribution company in case of an indirect customer of an interstate pipeline.

(o) Nothing in this § 2.79 is intended to amend, modify, or in any way change any existing rule or regulation.

(Secs. 7, 15, and 16 (52 Stat. 824, 825, 829, 930; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717n, and 717o); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Order 533, 40 FR 41767, Sept. 9, 1975, as amended at 43 FR 5371 Feb. 8, 1978; 44 FR 60082, Oct. 18, 1979; Order 2-A, 46 FR 53653, Oct. 30, 1981; Order 433, 50 FR 40345, Oct. 3, 1985]

Statement of General Policy To Implement Procedures for Compliance With the National Environmental Policy Act of 1969

Authority: Sections 2.80-2.82 issued under secs. 4, 10, 15, 307, 309, 311 and 312 (41 Stat. 1065, 1066, 1068, 1070; 46 Stat. 798; 49 Stat. 839, 840, 841, 842, 843, 844, 856, 857, 858, 859, 860, Stat. 501, 82 Stat. 617; 16 U.S.C. 797, 803, 808, 825f, 825h, 825j, 825k) and the Natural Gas Act, particularly secs. 7 and 16 (52 Stat. 824, 825, 830, 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717o), and the National Environmental Policy Act of 1969, Pub. L. 91-190, approved January 1, 1970, particularly secs. 102 and 103 (83 Stat. 853, 854), unless otherwise noted.

§ 2.80 Detailed environmental statement.

(a) It will be the general policy of the Federal Energy Regulatory Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy Act of 1969 (NEPA) in its regulations promulgated for statutes under the jurisdiction of the Commission, including the Federal Power Act, the Natural Gas Act and the Natural Gas Policy Act. The National Environmental Policy Act of 1969 requires, among other things, all Federal agencies to include a detailed environmental statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969, the Commission staff will make a detailed environmental statement when the regulatory action taken by the Commission under the statutes under the jurisdiction of the Commission will have a significant environmental impact. The specific regulations implementing NEPA are contained in Part 380 of the Commission's regulations.

[Order 486, 52 FR 47910, Dec. 17, 1987]

Statement of General Policy To Implement the Economic Stabilization Act of 1970, as Amended, and Executive Orders 11615 and 11627

Authority: Sections 2.90 through 2.107 issued under 84 Stat. 799, as amended, 85 Stat. 38, unless otherwise noted.

§ 2.90 Implementation of Executive Order No. 11615.

PHASE I (AUGUST 15, 1971-NOVEMBER 13, 1971)

(a)(1) It is the general policy of the Federal Power Commission to implement the Economic Stabilization Act of 1970, as amended, and E.O. No. 11615 (Attachment A)[1] concerning the stabilization of prices, rents, wages, and salaries insofar as those laws pertain to the Commission's regulatory jurisdiction under the Natural Gas Act (52 Stat. 821 et seq. as amended), the Federal Power Act (41 Stat. 1063 et seq. as amended), and all other statutes vesting legal authority in this Commission, including such regulations, definitions, orders, exceptions and exemptions as may be hereinafter issued by the President or the Cost of Living Council.

(2) Unless otherwise provided, this Phase I Statement of Policy (18 CFR 2.90, 36 FR 16902, August 26, 1971, as amended) shall remain in full force and effect until modified by order, rule or regulation issued by the Commission.

(b)(1) In any situation where it is unlawful to collect rates or charges except in accordance with a rate schedule in effect pursuant to the Regulations of the Commission, no natural gas company, public utility, nor licensee (herein "company") will be deemed in default of any law, or regulation thereunder, administered by the Commission because that company has complied with E.O. 11615, or any modification thereof. In our view, the Executive order precludes upward revision of any rate schedule in effect during the 30-day period ending August 14, 1971. In the event of a change in rate schedule during that 30-day period, the rate schedule last permitted to go into effect by the Commission shall control.

(2) A rate which is being collected on August 14, 1971, whether or not subject to refund, shall continue to be collected, subject to further Commission order.

(3) Any rate filing made subsequent to August 14, 1971 (or such filing having been made prior to August 14, 1971, but with rates to become effective after August 14, 1971, whether by termination of a suspension period or by automatic or other escalations, including tracking, or otherwise), which rate would be an increase proscribed by E.O. 11615, shall not take effect for the duration of the period set forth in the Executive order, including any extension or modification thereof, or for the duration of any suspension period set by the Commission pursuant to the Natural Gas Act or the Federal Power Act, whichever is longer.

(4) The Charges of "small producers" (as defined in Order No. 428, issued March 18, 1971, 36 FR 5598, March 25, 1971) shall be stabilized at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual small producer during the 30-day period ending August 14, 1971, for so long as E.O. No. 11615 is applicable.

(c) Nothing herein contained shall be construed as preventing any filing permitted by the Federal Power Act, the Natural Gas Act, or other authorities, and the regulations issued thereunder. The Commission's regulatory functions shall continue to be operative and shall be in accordance with the requirements, purposes, and policies of those Acts, subject to E.O. No. 11615, as it may affect implementation of Commission orders.

[Order 437, 36 FR 16902, Aug. 26, 1971, as amended by Order 437A, 36 FR 22368, Nov. 25, 1971]

§ 2.90a Implementation of Executive Order No. 11627 and 6 CFR 300.016.

(a) No public utility as defined in 6 CFR 300.016 subject to the jurisdiction of this Commission shall increase a rate or charge without having first received the approval of this Commission.

(b) For the purposes of the Economic Stabilization Act, as amended, and pursuant to 6 CFR 300.016(a), all increases in rates or charges appearing in Commission orders issued after November 13, 1971, shall be effective on the date and under the conditions specified in the Commission order, but in no event will such increases be retroactive prior to 12:01 a.m., November 14, 1971.

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[1] Filed as part of the original document. See also 36 FR 15727.

(c) For the purposes of the Economic Stabilization Act as amended and pursuant to 6 CFR 300.016(b), the Commission hereby announces that its actions with respect to increases in rates or charges in orders heretofore issued containing a provision that they are subject to the policy announced in Order No. 437 will be reviewed for consistency with the purposes of the Economic Stabilization Act of 1970, as amended. After such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

(d) For the purposes of the Economic Stabilization Act, as amended, the Commission announces that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in Order No. 437, where the applicability of Order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

(e) Orders heretofore issued containing a provision that they are subject to Order No. 437, but which do not authorize increases in rates or charges, will also be reviewed, and actions taken thereon will also be reported as supplements to this order, with appropriate indications as to relief from any requirement imposed by Order No. 437.

[Order 437A, 36 FR 22368, Nov. 25, 1971]

§ 2.90b Implementation of Executive Order No. 11723.

(a) No public utility subject to the jurisdiction of this Commission shall increase a rate or charge without having first received the approval of this Commission;

(b) The Commission will continue t carry out its responsibilities under th Natural Gas Act (15 U.S.C. 717, e seq.) and the Federal Power Act (1 U.S.C. 792, et seq.) by establishing jus and reasonable rates with a view toward consistency of those rates with the Economic Stabilization Act o 1970, as amended;

(c) All public utilities subject to the jurisdiction of this Commission shal comply fully with the Economic Stabilization Act of 1970, as amended, the E.O. No. 11723, and the rules and regulations promulgated thereunder by the Cost of Living Council.

[Order 437-B, 38 FR 17183, June 29, 1973]

§ 2.91 Automated computer regulatory information system.

(a) By this order the Federal Power Commission declares the policy to establish a fully automated computer regulatory information system, which when developed and fully operative will assist the Commission in carrying out its responsibilities imposed by the Federal Power Act and the Natural Gas Act and provide prompt and ready access to industry and the public at large of data contained in a central electronic data bank designed for such system. The central electronic data bank will be designed with a view to:

(1) Further eliminate duplication in information now collected;

(2) Provide the speed of access which is required by public interest priorities and available through full computer technology;

(3) Facilitate further evaluation and analysis of all data;

(4) Facilitate reduction of the quantity of existing manual files; and

(5) Accommodate the development of new regulatory techniques.

(b) The Commission hereby establishes a central point of contact and coordination within the Office of the Executive Director of the Commission to ensure continued coordination and liaison with industry, industry associations, and all other persons or entities who have or may express interest in the development plans, progress and status of the fully automated computer regulatory information system to be established pursuant to this order.

(c) The development of the automatic computer regulatory information system will be effected through the adoption of phased rulemaking orders wherein the various Federal Power Commission reporting procedures and report forms will be restructured to computer regulatory form with accounting and other data gathering requirements to conform therein. Transitional periods will be provided during which existing and proposed computer reporting techniques will be observed, and thereafter, inconsistent existing processes will be eliminated.

(1) In restructuring the current methods of reporting data to the Commission by using EDP technology, the Commission contemplates the redesign and consolidation of all existing "hard copy" public use forms, eliminating redundancies and providing clarifying instructions. EDP reporting of public use form information will be replaced by the submission of individual data elements within a general data element and code scheme which will be compatible with EDP media and data communications technology. It is anticipated that this major systems revision will result in the reduction of the total number of data items currently transmitted to the Commission by the respondents. This order does not affect any other rules or rulemakings regarding the submission of data in EDP format issued prior to this order.

(2) The Commission contemplates the issuance of FPC agency EDP standards to be employed in the said system which shall be in accordance with the requirements of Pub. L. 89-306, Office of Management and Budget (OMB) Circular No. A-86, and other applicable Federal standards. The Commission intends to issue references to Federal EDP standards and to promulgate FPC agency standards consisting of data elements and codes for use by persons submitting data to the Commission.

(3) Inasmuch as many utilities and natural gas companies reporting data to the Commission also report similar data to State or other governmental agencies, the Commission will coordinate this program plan with the appropriate State and other governmental agencies so as to avoid undue burden on the reporting companies. Any redesign of existing public use forms will also be coordinated with appropriate state and other governmental agencies.

(d) Upon establishment of a fully developed automated computer regulatory information system, the Commission will operate a centralized electronic information data bank of all Federal Power Commission regulatory and administrative information.

(1) In applying the technology of computers, terminals and data communications to Commission operations, the Commission will install the necessary terminals and communication devices in each of its organizational entities to facilitate the use of the central data bank. The installation of this equipment will be in accordance with the Commission's EDP management plan and under the direction of the Commission's EDP unit. The EDP unit will be the focal point of new computer applications within the Commission as well as maintaining state-of-the-art knowledge of computers, terminals, communications and software as applicable to regulatory functions. The Commission has concluded previously that cost of development and operation of a fully automated computer regulatory information system is a cost effective mode of operations for the conduct of Commission activities.

(2) Even though the consolidated public use forms will be maintained in the Office of Public Information, the same data will be available on high speed microfilm readers located in OPI, making specific information available rapidly. Hard copy printout will also be available.

(3) The system will permit the Commission and its staff access to process data via terminals or other devices for the express purpose of regulation as provided in the Federal Power Act, 16 U.S.C. 4321, and all other applicable laws and requirements.

(4) This statement of policy may be amended from time to time as circumstances require.

[Order 494, 38 FR 27814, Oct. 9, 1973, as amended by Order 494, 39 FR 7928, Mar. 1, 1974]

§ 2.100 [Reserved]

§ 2.101 [Reserved]

§ 2.102 Policy respecting production-related activities performed by an interstate pipeline.

(a) *Policy.* (1) If an interstate pipeline purchases natural gas in a first sale, then in any proceeding brought under the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, a production-related service provided by the pipeline with respect to the purchase of such gas, or by another on behalf of the pipeline, shall be deemed prudent, unless the terms of the gas sales contract governing the pipeline's purchase of the gas expressly provide that the seller perform the activity.

(2) Any production-related service not deemed prudent under paragraph (a)(1) of this section, and the level of costs to perform any production-related service, is not deemed imprudent. The prudence of such service, or of the level of costs, is to be determined in an appropriate pipeline rate or certificate proceeding brought under the Natural Gas Act.

(b) *Definitions.* For purposes of this section the following definitions apply:

(1) The terms "first sale" and "interstate pipeline" have the same meaning as such terms have under the NGPA.

(2) The term "production-related service" has the same meaning as that term has under § 271.1104(c)(6) of this part.

[Order 94-A, 48 FR 5177, Feb. 3, 1983]

§ 2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.

(a) Recognizing that take or pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission sets forth its general policy regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate pipelines which become effective December 23, 1982. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

(b) With respect to gas purchase contracts entered into on or after December 23, 1982, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made pursuant to take or pay requirements in such gas purchase contracts or amendments which exceed 75 percent of annual deliverability.

(Natural Gas Act, 15 U.S.C. 717-717w; Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350, 15 U.S.C. 3301-3432)

[47 FR 57269, Dec. 23, 1982]

§ 2.104 Mechanisms for passthrough of pipeline take-or-pay buyout and buydown costs.

(a) *General Policy.* The Commission as a matter of policy will provide two distinct mechanisms for passthrough of take-or-pay buyout and buydown costs of interstate natural gas pipelines. The first is pursuant to existing Commission policy and practice. Under this method, pipelines may pass through prudently incurred take-or-pay buyout and buydown costs in their sales commodity rates. The second method is available to pipelines which agree to an equitable sharing of take-or-pay costs and which transport under Part 284 of this chapter (other than under the grandfather provisions of § 284.105 or § 284.223). Qualifying pipelines may utilize the alternative passthrough mechanisms described in this section. Where a pipeline agrees to absorb from 25 to 50 percent of take-or-pay buyout and buydown costs, the Commission will permit the pipeline to recover through a fixed charge an amount equal to (but not greater than) the amount absorbed. Any remaining costs up to 50 percent of total buyout and buydown costs may be recovered either through a commodity rate surcharge or a volumetric surcharge on total throughput.

(b) *Cost allocation procedures.* A pipeline's volume-based surcharges must be based on the volumes which underlie its most recent Commission-approved rates. Fixed charges must be based on each customer's cumulative deficiency in purchases in recent years (during which the current take-or-pay liabilities of the pipelines were incurred) measured in relation to that customer's purchases during a representative period during which take-or-pay liabilities were not incurred. The allocation formula employed must incorporate the following guidelines:

(1) A representative base period must be selected. The base period must reflect a representative level of purchases by the pipeline's firm customers during a period preceding the onset of changed conditions which resulted in reduced purchases and growth of the take-or-pay problem.

(2) Firm purchases by each customer during the base year under firm rate schedules or contracts for firm service must be determined.

(3) Firm sales purchase deficiency volumes for each subsequent year must be determined.

(4) A fixed charge based on each customer's cumulative deficiencies as compared to total cumulative deficiencies must be derived. The filing pipeline will be free to select for rate calculation and filing purposes a reasonable amortization period for buyout and buydown costs being recovered through fixed charges or volumetric surcharges. The pipeline will be entitled to interest at the rate set forth in Part 154 of this chapter on unamortized amounts.

(c) *Implementing procedures.* (1) Pipelines acting pursuant to this section may submit on or before March 31, 1989, a non-PGA rate filing under section 4(e) of the Natural Gas Act. Pipelines may include in their filings a fixed charge and a volumetric surcharge to recover buyout and buydown costs actually paid as of the date of filing plus similar costs which are known and measurable within the following nine months. Detailed support for the amounts claimed and for the calculation of customer surcharges must be provided. In addition, the pipeline must disclose and describe all consideration, both cash and noncash, given to producers in exchange for take-or-pay relief.

(2) In any filings made under this section, pipelines must include proposals for periodic (preferably annual) adjustments to customer surcharges, together with any necessary accounting procedures, designed to assure that revenues recovered by the pipeline remain in balance with buyout and buydown costs covered by the filing and actually incurred by the pipeline.

(d) *Prudence.* (1) The Commission will examine the issue of prudence if it is raised by a party in an individual proceeding. If it is raised, the pipeline will be required to demonstrate the prudence of take-or-pay buyout and buydown costs which it seeks to recover from its customers through both fixed and volume-based charges.

(2) The Commission intends to exercise its authority to the full extent permitted by the Natural Gas Act to approve take-or-pay settlements. The Commission intends to approve uncontested take-or-pay settlements which are consistent with this section and found to be in the public interest. The Commission will also, if it appears reasonable and permissible to do so, approve contested settlements as to all consenting parties and initiate separate hearings to establish the rates for opposing parties. Alternatively, the Commission will approve contested settlements on the merits if supported by substantial evidence in the record. In any case where hearings are held as to the prudence of take-or-pay buyout and buydown costs, the Commission will permit the pipeline the opportunity to recover all take-or-pay costs found to be prudent from the contesting parties on a proportional basis, even if the amount allowed is greater than the amounts initially sought to be recovered by the pipeline.

(e) *Flowthrough by downstream pipelines.* Downstream pipelines must flow through approved take-or-pay fixed charges based on the cumulative purchase deficiencies of their customers. Volumetrically-based surcharges must be flowed through on a volumetric basis. Customers of downstream pipelines have the right in connection with either PGA or general rate filings to challenge the purchasing practices of such pipelines. Remedies for purchasing practices found by the Commission to be imprudent will be determined on a case-by-case basis.

(f) *Ongoing proceedings.* Pipeline rate proceedings pending September 15, 1987 may be utilized as a forum for implementing the approved cost recovery mechanisms set forth in this section. Permission will be granted in cases where implementation of this policy in pending proceedings appears feasible, will not result in inordinate delay, or can be expected to result in unnecessary or cumulative rate filings with the Commission. In the event permission is granted, the presiding judge(s) will allow pipelines to supplement their filings to the extent necessary to assure compliance with the filing and data requirements set forth herein. The presiding judges shall also establish any procedures necessary to protect the rights of all parties. Any rates established pursuant to this section will be permitted to become effective only prospectively upon Commission approval.

(g) *Scope.* This section does not go beyond the Commission's determination in the April 10, 1985, policy statement (Docket No. PL85-1-000) that take-or-pay buyout and buydown costs do not violate the pricing provision of the Natural Gas Policy Act of 1978 (NGPA). It is not intended to affect take-or-pay prepayments made by pipelines and included in account 165 and in their rate bases. Nor does it address the issue of whether take-or-pay prepayments to a producer for gas not taken and which cannot be made up violate the Title I pricing provisions of the NGPA. This policy statement applies only to buyout and buydown costs paid by pipelines that are transporting under Part 284 of this chapter, under existing contracts, and is not intended to disturb in any way take-or-pay settlements previously entered into between pipelines and their producer suppliers.

[Order 500, 52 FR 30351, Aug. 14, 1987, as amended at 52 FR 35539, Sept. 22, 1987; Order 500-F, 53 FR 50924, Dec. 19, 1988]

§ 2.105 Gas supply charges.

An interstate natural gas pipeline that transports under Part 284 of this chapter may include in its tariff a charge, not related to facilities, for standing ready to supply gas to sales customers in accordance with the following principles:

(a) The pipeline may not recover take-or-pay or similar charges from suppliers by any other means.

(b) The pipeline must allow its sales customers to nominate levels of service freely within their firm sales entitlements or otherwise employ a mechanism for the renegotiation of levels of service at regular intervals.

(c) The pipeline must announce prior to nominations by the customers a firm price or pricing formula for the service, and hold that price or pricing formula firm during the interval arranged in paragraph (b) of this section.

(d) By nominating a new level of service lower than its current level, a customer has consented to any abandonment sought by the pipeline commensurate with the difference between the current level of service and the nominated level.

[Order 500, 52 FR 30352, Aug. 14, 1987; 52 FR 35539, Sept. 22, 1987]

RULES OF GENERAL APPLICABILITY

§ 2.201 [Reserved]

STATEMENT OF GENERAL POLICY AND INTERPRETATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

§ 2.300 Statement of policy concerning allegations of fraud, abuse, or similar grounds under section 601(c) of the NGPA.

Recognizing the potential for an increasing number of intervenor complaints predicated on the fraud, abuse, or similar grounds exception to guaranteed passthrough, the Commission sets forth the elements of a cognizable claim under section 601(c)(2) which it expects to apply in cases in which fraud, abuse, or similar grounds is raised. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration. The procedure prescribed conforms with the NGPA's general guarantee of passthrough by placing the burden of pleading the elements and proving the elements of a case on intervenors who would allege fraud, abuse, or similar grounds as a basis for denying passthrough of gas prices incurred by an interstate pipeline.

(a) In order for the issue of fraud, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, any first seller who sells natural gas to the interstate pipeline, or both acting together, have made a fraudulent misrepresentation or concealment; and

(2) Because of that fraudulent misrepresentation or concealment, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the fraudulent conduct.

(b) In order for the issue of abuse, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, a first seller who sells to the interstate pipeline, or both acting together, have made a negligent misrepresentation or concealment, or other misrepresentation or concealment in disregard of a duty; and

(2) Because of that negligent misrepresentation or concealment, or other misrepresentation or concealment in disregard of a duty, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the negligent misrepresentation or concealment, or other misrepresentation or concealment made in disregard of a duty.

(c) In order for the issue of similar grounds, as that term is used in section 601(c) of the NGPA, to be considered in a proceeding, an intervenor or intervenors must file a complaint alleging that:

(1) The interstate pipeline, any first seller who sells natural gas to the interstate pipeline, or both acting together, have made an innocent misrepresentation of fact; and

(2) Because of that innocent misrepresentation of facts, the amount paid by the interstate pipeline to any first seller of natural gas was higher than it would have been absent the innocent misrepresentation of fact.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, (15 U.S.C. 3301-3432))

[47 FR 6262, Feb. 11, 1982]

STATEMENT OF INTERPRETATION UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

§ 2.400 Statement of interpretation of waste concerning natural gas as the primary energy source for qualifying small power production facilities.

For purposes of deciding whether natural gas may be considered as waste as the primary energy source pursuant to § 292.204(b)(1)(i) of this chapter, the Commission will use the criteria described in paragraphs (a), (b) and (c) of this section.

(a) *Category 1.* Except as provided in paragraph (b) of this section, natural gas with a heating value of 300 Btu per standard cubic foot (scf) or below will be considered unmarketable.

(b) *Category 2.* In determining whether natural gas with a heating value above 300 Btu but not more than 800 Btu per scf and natural gas produced in the Moxa Arch area is unmarketable, the Commission will consider the following information:

(1) The percentages of the chemical components of the gas, the wellhead pressure, and the flow rate;

(2) Whether the applicant offered the gas to all potential buyers located within 20 miles of the wellhead under terms and conditions commensurate with those prevailing in the region and that such potential buyers refused to buy the gas; and

(3) A study, which may be submitted by an applicant, that evaluates the economics of upgrading the gas for sale and transporting the gas to a pipeline. The study should include estimates of the revenues which could be derived from the sale of the gas and the fixed and variable costs of upgrading.

(c) *Category 3.* In determining whether natural gas with a heating value above 800 Btu per scf is marketable, the Commission will consider the information included in paragraph (b) of this section and whether:

(1) The gas has actually been flared, vented to the atmosphere, or continously injected into a non-producing zone for a period of one year, pursuant to legal authority; or

(2) The gas has been certified as waste, *i.e.*, suitable for disposal, by an appropriate state authority.

[Order 471, 52 FR 19310, May 22, 1987]

APPENDIX C—NATIONWIDE PROCEEDING COMPUTATION OF FEDERAL INCOME TAX ALLOWANCE INDEPENDENT PRODUCERS, PIPELINE AFFILIATES AND PIPELINE PRODUCERS CONTINENTAL U.S.—1972 DATA (DOCKET NO. R-478)

Line No.	Particulars	Schedule No.	Line No.	(1)—Total [1]	(2)—Total excluding production taxes [2]	(3)—Gas only [3]	(4)—Lease separation [3]	(5)—No lease separation [3]	(6)—Total [4]	(7)—Percentage lease separation gas [5]	(8)—Allocated amount gas [6]
	PRODUCTION, EXPLORATION AND DEVELOPMENT COSTS										
2	Direct and indirect lease costs and expenses.	1-A	01	1,694,893,558	1,694,893,558	57,287,938	$144,679,567	$19,763,791	$221,731,296	90.33	207,740,782
2	Taxes (except income and production)	A-1	02	210,335,720	210,335,720	16,507,630	20,431,444	4,360,024	41,299,098	9.33	39,323,337
4	Production taxes	1-A	03	479,424,297		27,124,210	96,699,673	10,005,599	133,829,482	90.33	124,478,624
5	Other lease expenses	1-A	04	61,102,433	61,102,433	17,527,077	24,988,900	336,427	42,852,404	90.33	40,435,977
6	Depletion, depreciation and amortization.	1-A	05	1,716,823,070	1,716,823,070	105,999,777	297,881,312	25,502,048	429,383,137	90.33	400,578,014
7	Corporate general expense	1-A	06	278,845,909	278,845,909	13,611,337	25,077,796	3,579,728	42,268,861	90.33	39,843,838
8	Area, district, division and field expense.	1-A	07	261,718,417	26,178,417	7,207,320	21,756,604	2,778,944	31,744,868	90.33	29,640,811
9	Miscellaneous lease revenues	1-A	09	(12,203,136)	(12,203,136)	(1,348,729)	(2,768,788)	(314,067)	(4,431,584)	90.33	(4,163,842)
10	Return on production rate base at 15 percent.	1-A	13	2,505,272,672	2,505,272,672	186,055,524	427,939,601	69,857,212	663,852,337	90.33	622,470,578
11	Exploration and development costs and expenses.	1-A	15	1,673,945,853	1,673,945,853						594,971,262
12	Return on exploration rate base at 15 percent.	1-A	16	588,558,894	588,558,894						234,604,103
13	Regulatory commission expense including return.	1-A	17	6,514,279	6,514,279						6,514,852
14											
15	Total computed revenue			9,465,231,966	8,985,807,669						2,336,439,376
16	(gross income)										
17											
18	REVENUE DEDUCTIONS										
19	Direct and indirect lease costs and expenses.	1-A	01	1,694,893,558	1,694,893,558						207,740,872
20	Taxes (except income and production)	1-A	02	210,335,720	210,335,720						39,323,377
21	Production taxes	1-A	03	479,424,297							124,478,624
22	Other lease expenses	1-A	04	61,102,433	61,102,433						40,435,977
23	Book depletion			[7] (283,121,142)	283,121,242	24,287,986	61,675,828	6,177,596	92,141,410	90.33	86,177,357
24	Depreciation expense	1-A	05	[7] (654,604,447)	654,604,447	30,223,586	94,010,520	7,007,662	131,241,768	90.33	122,150,951
25	Amortization of capitalized IDC			[7] (779,097,382)	779,097,382	51,488,205	142,194,964	12,316,790	205,999,959	90.33	192,249,706
26	Corporate general expense	1-A	06	278,845,909	278,845,909						39,843,838

APPENDIX C—NATIONWIDE PROCEEDING COMPUTATION OF FEDERAL INCOME TAX ALLOWANCE INDEPENDENT PRODUCERS, PIPELINE AFFILIATES AND PIPELINE PRODUCERS CONTINENTAL U.S.—1972 DATA (DOCKET NO. R-478)—Continued

Line No.	Particulars	Schedule No.	Line No.	(1)—Total [1]	(2)—Total excluding production taxes [2]	(3)—Gas only [3]	(4)—Lease separation [3]	(5)—No lease separation [3]	(6)—Total [4]	(7)—Percentage lease separation gas [5]	(8)—Allocated amount gas [6]
27	Area, district, division and field expense.	1-A	07	261,718,417	261,718,417						29,640,811
28	Miscellaneous lease revenues	1-A	09	(12,203,136)	(12,203,136)						(4,163,842)
29	Exploration and development costs and expenses.			1,673,945,853	1,673,945,853						594,971,262
30	Regulatory commission expense	4-A	01	6,384,384	6,394,384						6,394,384
31											
32	Total book expenses			6,371,380,505	5,891,856,209						1,479,243,227
33											
34	Production net income (line 15 less line 32).			3,093,951,461	3,093,951,460						857,190,149
35											
36	TAX ADJUSTMENT—ADD (DEDUCT)										
37	Amortization of capitalized IDC			779,097,282	779,097,382						192,249,706
38	Estimated IDC capitalized in 1972			[8] (1,470,935,857)	(1,470,935,857)						(362,967,445)
39	Interest expense (calculated)			[9] (243,846,540)	(243,846,540)						(60,587,136)
40											
41	Taxable income			2,158,266,445	2,158,266,445						625,891,274
42											
43	Federal income tax at 48 percent.			1,992,245,949	1,992,245,949						[10] 577,745,791

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[1] Lines 1 thru 15, col. (1). From Notice issued Sept. 12, 1974, app. A, p. 12, col. (d).

[2] Production taxes have been deleted from col. (1).

[3] From notice issued Sept. 12, 1974, app. A, p. 12, cols. (g), (h), and (i).

[4] Col. (3) plus col. (4) plus col. (5).

[5] Calculated on a modified British thermal unit basis (1.5 to 1).

[6] Col. (7) times col. (4), plus cols. (3) and (5).

[7] See composites mailed to all parties on Feb. 13, 1974.

[8] Calculated, 188.8 percent (A R64-1-2) times $779,097,382 equals $1,470,935,857.

[9] Calculated 0.0146 (interest rate) times $16,701,817,818 (app. A, schedule 2-A, (d), line 11, p. 13) equals $243,846,540.

[10] $577,745,791 divided by 9,508,369,001 equals 6.08 cents per thousand cubic feet.

[Opinion 749, 41 FR 3092, Jan. 21, 1976]

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

Subpart A—Organization; Delegations of Authority

Sec.
3.4 Organization.

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142 (1978); Administrative Procedure Act, 5 U.S.C. 551-557 (1982); Natural Gas Act, 15 U.S.C. 717-717z (1982); Federal Power Act, 16 U.S.C. 791a-828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301-3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982); Interstate Commerce Act, 49 U.S.C. 1-27 (1976); Freedom of Information Act, 5 U.S.C. 552 (1982) as amended by Freedom of Information Reform Act of 1986.

Subpart A—Organization; Delegations of Authority

Editorial Note 1: Nomenclature changes affecting Part 3 appear at 37 FR 18192, Sept. 8, 1972.

Editorial Note 2: For an order deferring billing for annual charges due to a Supreme Court ruling, see 38 FR 3401, Feb. 6, 1973.

§ 3.4 Organization.

(a) The Oil Pipeline Board, responsible for carrying out the Commission's functions under sections 4, 6(3), 6(6), 15(7), 19a, and 20(1), 20(2), 20(3), 20(4), 20(5), 20(11) of the Interstate Commerce Act. Any reference to a Commission "Division" or a "Review Board" in the Interstate Commerce Act or rules of practice shall be deemed to refer to the full FERC for purposes of the operation of the Oil Pipeline Board herein established the review of its actions.

[43 FR 6765, Feb. 16, 1978, and 45 FR 21224, Apr. 1, 1980, as amended by Order 376, 49 FR 21704, May 23, 1984]

PART 3a—NATIONAL SECURITY INFORMATION

General

Sec.
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3a.2 Authority.

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3a.11 Classification of official information.
3a.12 Authority to classify official information.
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3a.51 Designation of security officers.

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3a.61 Storage and custody of classified information.

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3a.71 Accountability for classified material.

Transmittal of Classified Material

3a.81 Transmittal of classified material.

Data Index System

3a.91 Data index system.

Authority: E.O. 11652 (37 FR 5209, March 10, 1972), National Security Council Directive of May 17, 1972 (37 FR 10053, May 19, 1972), sec. 309 of the Federal Power Act (49 Stat. 858, 859; 16 U.S.C. 825h) and sec. 16 of the Natural Gas Act (52 Stat. 830; 15 U.S.C. 717*o*).

Source: Order 470, 38 FR 5161, Feb. 26, 1973, unless otherwise noted.

General

§ 3a.1 Purpose.

This Part 3a describes the Federal Power Commission program to govern the classification, downgrading, declassification, and safeguarding of national security information. The provisions and requirements cited herein are applicable to the entire agency except that material pertaining to personnel security shall be safeguarded by the Personnel Security Officer and shall not be considered classified material for the purpose of this part.

§ 3a.2 Authority.

Official information or material referred to as classified in this part is expressly exempted from public disclosure by 5 U.S.C. 552(b)(1). Wrongful disclosure thereof is recognized in the Federal Criminal Code as providing a basis for prosecution. E.O. 11652, March 8, 1972 (37 FR 5209, March 10, 1972), identifies the information to be protected, prescribes classification, downgrading, declassification, and safeguarding procedures to be followed and establishes a monitoring system to insure its effectiveness. National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information, May 17, 1972 (37 FR 10053, May 19, 1972), implements E.O. 11652.

CLASSIFICATION

§ 3a.11 Classification of official information.

(a) *Security Classification Categories.* Information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") is classified Top Secret, Secret or Confidential, depending upon the degree of its significance to national security. No other categories are to be used to identify official information or material requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(1) *Top Secret.* Top Secret refers to national security information or material which requires the highest degree of protection. The test for assigning Top Secret classification is whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification is to be used with the utmost restraint.

(2) *Secret.* Secret refers to national security information or material which requires a substantial degree of protection. The test for assigning Secret classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification Secret shall be sparingly used.

(3) *Confidential.* Confidential refers to national security information or material which requires protection, but not to the degree described in paragraphs (a) (1) and (2) of this section. The test for assigning Confidential classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

(b) Classified information will be assigned the lowest classification consistent with its proper protection. Documents will be classified according to their own content and not necessarily according to their relationship to other documents.

(c) The overall classification of a file or group of physically connected documents will be at least as high as that of the most highly classified document therein. When put together as a unit or complete file, the classification of the highest classified document contained therein will be marked on a cover sheet, file folder (front and back), or other similar covering, and on any transmittal letters, comments, or endorsements.

(d) *Administrative Control Designations.* These designations are not security classification designations, but are used to indicate a requirement to protect material from unauthorized disclosure. Material identified under the provisions of this subparagraph will be handled and protected in the same manner as material classified Confidential except that it will not be subject to the central control system described in § 3a.71. Administrative Control designations are:

(1) *For Official Use Only.* This designation is used to identify information which does not require protection in the interest of national security, but requires protection in accordance with statutory requirements or in the public interest and which is exempt from public disclosure under 5 U.S.C. 552(b) and § 388.105(n) of this chapter.

(2) *Limited Official Use.* This administrative control designation is used by the Department of State to identify nondefense information requiring protection from unauthorized access. Material identified with this notation must be limited to persons having a definite need to know in order to fulfill their official responsibilities.

(e) A letter or other correspondence which transmits classified material will be classified at a level at least as high as that of the highest classified attachment or enclosure. This is necessary to indicate immediately to persons who receive or handle a group of documents the highest classification involved. If the transmittal document does not contain classified information, or if the information in it is classified lower than in an enclosure, the originator will include a notation to that effect. (See § 3a.31(e).)

[Order 470, 38 FR 5161, Feb. 26, 1973, as amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3a.12 Authority to classify official information.

(a) The authority to classify information or material originally under E.O. 11652 is restricted to those offices within the executive branch which are concerned with matters of national security, and is limited to the minimum number absolutely required for efficient administration.

(b) The authority to classify information or material originally as Top Secret is to be exercised only by such officials as the President may designate in writing and by the heads of the following departments and agencies and such of their principal staff officials as the heads of these departments and agencies may designate in writing:

Such offices in the Executive Office of the President as the President may designate in writing.
Central Intelligence Agency.
Atomic Energy Commission.
Department of State.
Department of the Treasury.
Department of Defense.
Department of the Army.
Department of the Navy.
Department of the Air Force.
U.S. Arms Control and Disarmament Agency
Department of Justice.
National Aeronautics and Space Administration.
Agency for International Development.

(c) The authority to classify information or material originally as Secret is exercised only by:

(1) Officials who have Top Secret classification authority under § 3a.11(b); and

(2) The heads of the following departments and agencies and such principal staff officials as they may designate in writing:

Department of Transportation.
Federal Communications Commission.
Export-Import Bank of the United States.
Department of Commerce.
U.S. Civil Service Commission.
U.S. Information Agency.
General Services Administration.
Department of Health, Education, and Welfare.
Civil Aeronautics Board.
Federal Maritime Commission.
Federal Power Commission.
National Science Foundation.
Overseas Private Investment Corporation.

(d) The authority to classify information or material originally as Confidential is exercised by officials who have Top Secret or Secret classification authority.

(e) Pursuant to E.O. 11652, the authority to classify information or material originally as Secret or Confidential in the FPC shall be exercised only by the Chairman, the Vice Chairman, and the Executive Director. When an incumbent change occurs in these positions, the name of the new incumbent will be reported to the Interagency Classification Review Committee NSC.

§ 3a.13 Classification responsibility and procedure.

(a) Each FPC official who has classifying authority (§ 3a.12) shall be held accountable for the propriety of the classifications attributed to him. Unnecessary classification and overclassification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to the FPC or any of its officials or employees, or to prevent for any other reason the release of information which does not require protection in the interest of national security.

(b) Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule (§ 3a.22(b)). It also shall show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material which merely contains references to classified materials, which references do not reveal classified information, shall not be classified.

(c) Material classified under this part shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(d) Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a U.S. classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(e) Whenever information or material classified by an authorized official is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier.

(f) As a holder of classified information or material, the FPC shall observe and respect the classification assigned by the originator. If it is believed that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under E.O. 11652, the FPC will so inform the originator who is then required by the Executive order to reexamine the classification.

DECLASSIFICATION AND DOWNGRADING

§ 3a.21 Authority to downgrade and declassify.

(a) The authority to downgrade and declassify information or material shall be exercised as follows:

(1) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor or by a supervisory official of either.

(2) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in sections 2 A and B of E.O. 11652, March 10, 1972.

(3) In the case of classified information or material transferred pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving department or agency shall be deemed to be the originating department or agency for all purposes under E.O. 11652, including downgrading and declassification.

(4) In the case of classified information or material not officially transferred under paragraph (a)(3) of this section, but originated in a department or agency which has since ceased to exist, each department or agency in possession shall be deemed to be the originating department or agency for

all purposes. Such information or material may be downgraded and declassified after consulting with any other departments or agencies having an interest in the subject matter.

(5) Classified information or material transferred to the General Services Administration for accession to the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with E.O. 11652, directives of the President issued through the National Security Council, and pertinent regulations of the departments and agencies.

§ 3a.22 Declassification and downgrading.

(a) When classified information of material no longer requires the level of protection assigned to it, it shall be downgraded or declassified in order to preserve the effectiveness and integrity of the classification system. The Chairman, Vice Chairman, and Executive Director exercise downgrading and declassification authority in the FPC.

(b) Information and material classified prior to June 1, 1972, and assigned to Group 4 under E.O. 10501, as amended by E.O. 10964, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following General Declassification Schedule.

(1) *Top Secret.* Information or material originally classified TOP SECRET becomes automatically downgraded to Secret at the end of the second full calendar year following the year in which it was originated, downgraded to Confidential at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(2) *Secret.* Information and material originally classified Secret becomes automatically downgraded to Confidential at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) *Confidential.* Information and material originally classified Confidential becomes automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(c) To the fullest extent applicable, there shall be indicated on each such FPC originated classified document whether it can be downgraded or declassified at a date earlier than under the above schedule, or after a specified event, or upon the removal of classified attachments or enclosures. Classified information in the possession of the Federal Power Commission, but not bearing a marking for automatic downgrading or declassification, will be marked or designated by the Chairman or the Security Officer designated by § 3a.51 hereof for automatic downgrading or declassification in accordance with the rules and regulations of the department or agency which originally classified the information or material.

(d) When the FPC official having classification authority downgrades or cancels the classification of a document before its classification status changes automatically, each addressee to whom the document was transmitted shall be notified of the change unless the addressee has previously advised that the document was destroyed. Addressees must be notified similarly when it has been determined that a document must be upgraded.

(e) When classified information from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded, or declassified in accordance with the provisions of E.O. 11652 and NSC directives thereunder applicable to the information requiring the greatest protection.

(f) All information or material classified prior to June 1, 1972, other than that described in paragraph (b) of this section, is excluded from the General Classification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to classification review and disposition by FPC provided:

(1) A department or agency or member of the public requests review;

(2) The request describes the record with sufficient particularity to enable FPC to identify it; and

(3) The record can be obtained with a reasonable amount of effort.

(g) All classified information or material which is 30 years old or more will be declassified under the following conditions:

(1) All information and material classified after June 1, 1972, will, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material which the Chairman personally determines in writing to require continued protection because such continued protection is essential to the national security, or disclosure would place a person in immediate jeopardy. In such case, the Chairman also will specify the period of continued classification.

(2) All information and material classified before June 1, 1972 and more than 30 years old will be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the Chairman in accordance with paragraph (g) (1) of this section. In such case, the Chairman also will specify the period of continued classification.

(3) The Executive Director, acting for the Chairman, is assigned to assist the Archivist of the United States in the exercise of his responsibilities indicated in paragraph (g)(2) of this section. He will:

(i) Provide guidance and assistance to archival employees in identifying and separating those materials originated in FPC which are deemed to require continued classification; and

(ii) Develop a list for submission to the Chairman which identifies the materials so separated, with recommendations concerning continued classification. The Chairman will then make the determination required under paragraphs (g) (1) and (2) of this section and cause a list to be created which identifies the documents included in the determination, indicates the reason for continued classification, and specifies the date on which such material shall be declassified.

§ 3a.23 Review of classified material for declassification purposes.

(a) All information and material classified after June 1, 1972, and determined in accordance with Chapter 21, title 44, United States Code, to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis for the purpose of making such information and material publicly available according to the declassification determination at the time of classification. During each calendar year the FPC shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the FPC, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(b) Departments and agencies and members of the public may direct requests for review for declassification, as described in § 3a.22(f), to:

Office of the Secretary, Federal Power
Commission,[1] Washington, DC 20426.

The Office of the Secretary will assign the request to the appropriate Bureau or Office for action and will acknowledge in writing the receipt of the request. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 1952, 31 U.S.C. 483a, the requester shall be so notified. The Bureau or Office which is assigned action will make a determination within 30 days of receipt or explain why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the FPC Review Committee (paragraph (g) of this section) for a determination. Should the Bureau or Office assigned the action on a request for review determine that under the criteria set forth in section 5(B) of E.O. 11652 continued classification is required, the requester will be notified promptly and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the FPC Review Committee and the notice of determination will advise him of this right.

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[1] Now known as the Federal Energy Regulatory Commission.

(c) The FPC Review Committee will establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The chairman, acting through the committee, is authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the committee determines that continued classification is required under the criteria of section 5(B) of E.O. 11652, it will promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(d) A request by a department or agency or a member of the public to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification. If the information or material requested has been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the chairman, have the requested documents reviewed for declassification. Classification shall be continued in either case only when the chairman makes the personal determination indicated in § 3a.22(g)(1). The Archivist shall notify the requester promptly of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(e) For purposes of administrative determinations under paragraph (b), (c), or (d) of this section, the burden is on the FPC to show that continued classification is warranted. Upon a determination that the classified material no longer warrants classification, it will be declassified and made available to the requester if not otherwise exempt from disclosure under section 552(b) of Title 5, U.S.C. (Freedom of Information Act) or other provisions of law.

(f) A request for classification review must describe the document with sufficient particularity to enable the FPC to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester will be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester will be asked to limit his request to records that are reasonably obtainable. If the requester then does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester will be notified of the reasons why no action will be taken and of his right to appeal such decision.

(g) The FPC Review Committee will consist of the Executive Director, as Committee Chairman, the Secretary, and the Director, Office of Public Information, as members. In addition to the activities described in this paragraph, the Review Committee has authority to act on all suggestions and complaints with respect to administration of E.O. 11652 and this Part 3a.

(h) The FPC Review Committee is also responsible for recommending to the chairman appropriate administrative action to correct abuse or violation of any provision of E.O. 11652 or NSC directives thereunder, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

(i) The Chairman of the Review Committee will submit through the chairman, FPC, a report quarterly to the Interagency Classification Review Committee, NSC, of actions on classification review requests, classification abuses, and unauthorized disclosures.

CLASSIFICATION MARKINGS AND SPECIAL NOTATIONS

§ 3a.31 Classification markings and special notations.

(a) After the chairman, the vice chairman, or the executive director determines that classified information is contained in an original document or other item, the appropriate marking, i.e., Secret or Confidential, will be applied as indicated herein. In addition, each classified document will reflect its date of origin and the Bureau, Office or Regional Office responsible for its preparation and issuance, and the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates the document or other item has also authorized the classification, no further annotation as to his identity is required. Each classified document will also show on its face whether it is subject to or exempt from the General Declassification Schedule described in § 3a.22(b).

(1) For marking documents which are subject to the General Declassification Schedule, the following stamp will be used:

(Top Secret, Secret, or Confidential) Classified by ————. Subject to General Declassification Schedule of E.O. 11652, automatically downgraded at 2-year intervals and declassified on December 31, ———— (insert year).

(2) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp will be used:

(Top Secret, Secret, or Confidential) Classified by ————. Automatically declassified on ———————— (effective date or event).

(3) For marking documents which are exempt from the General Declassification Schedule the following stamp will be used:

(Top Secret, Secret, or Confidential) Classified by ————. Exempt from General Declassification Schedule of E.O. 11652, Exemption Category (section 5B (1), (2), (3), or (4). Automatically declassified on ———————— (effective date or event, if any).

(b) Should the classifier fail to mark such document with one of the foregoing stamps, the document shall be deemed to be subject to the General Declassification Schedule. The person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier. If the classifier is other than such person he shall be identified on the stamp as indicated.

(c) On documents, the classification markings Secret and Confidential will be stamped in red ink, printed, or written in letters considerably larger than those used in the text of the document. On documents which are typewritten in elite, pica or executive size type, the above markings should be in letters not less than three-sixteenths inch in height. No markings, other than those indicated above, are authorized to designate that a document or material requires protection in the interests of national security. The overall classification assigned to a document will be conspicuously marked on the top and bottom of each page and on the outside of the front and back covers, if any. Letters of transmittal, endorsements, routing slips, or any other papers of any size which conceal or partially conceal the cover, the title page, or first page, will bear the marking of the overall classification.

(d) Whenever a classified document contains either more than one security classification category or unclassified information, each section, part or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified.

(e) Letters of transmittal or other covering documents which are classified solely because of classified enclosures or attachments, or which are classified in a lower category than such enclosures or attachments, will bear either of the following markings, as appropriate.

(1) If the covering document is classified on its own, but has enclosures or attachments of a higher classification, or is a component (i.e., an endorsement or comment) or a file in which other components bear a higher classification:

Regarded ______
(appropriate classification)
When separated from ______
(identify higher classified components)

(2) If unclassified when separated from its classified enclosures or attachments:

When the Attachments Are Removed, This Transmittal Letter Becomes Unclassified.

(f) In addition to the classification category markings prescribed above, the first or title page of each classified document will contain instructions as appropriate, in accordance with the following:

(1) *Regarding instructions.* The declassification and downgrading notation, as described in § 3a.31(g) will be applied to classified documents only. The notation will not be carried forward to unclassified letters of transmittals or other cover documents. When such cover documents are classified by their own content, they will be annotated with the notwithstanding instructions which pertain to the enclosures.

(2) *"Special Handling" notation.* Classified information will not be released or disclosed to any foreign national without proper specific authorization. This applies even when the classified material does not bear the special handling notice described below. The special handling notice indicated only that the material has been reviewed and a specific determination made that the information is not releasable to foreign nationals. If it is anticipated that the handling or distribution of a classified document will make it liable to inadvertent disclosure to foreign nationals it will be marked with a separate special handling notation, which will be carried forward to letters of transmittals or other cover documents. The notation reads:

Special Handling Required Not Releasable to Foreign Nationals

(g) Whenever classified material is upgraded, downgraded, or declassified, the material will be marked to reflect:

(1) The change in classification.

(2) The authority for the action.

(3) The effective date.

(4) The person or unit taking the action.

When classification changes are made, the classification markings themselves will be changed or canceled, and each copy or item of the material will be marked with the citation of authority. The notation below will be used for this purpose:

Classification ______
(changed)
______
(canceled)
To ______
Effective on ______
(date)
Under authority of ______
(authorizing official or office)
By ______
(person or office taking action)

(h) In addition to the foregoing marking requirements, warning notices shall be displayed prominently on classified documents or materials as prescribed below. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(1) *Restricted data.* For classified information or material containing restricted data as defined in the Atomic Energy Act of 1954, as amended:

RESTRICTED DATA

This document contains restricted data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

(2) *Formerly restricted data.* For classified information or material containing solely Formerly Restricted Data, as defined in section 142.d, Atomic Energy Act of 1954, as amended:

FORMERLY RESTRICTED DATA

Unauthorized disclosure subject to administrative and criminal sanctions. Handle as restricted data in foreign dissemination, section 114.b., Atomic Energy Act, 1954.

(3) *Information other than restricted data or formerly restricted data.* For classified information or material furnished to persons outside the Executive Branch of Government other than as described in paragraphs (h)(1) and (2) of this section.

NATIONAL SECURITY INFORMATION

Unauthorized disclosure subject to criminal sanctions.

(4) *Sensitive intelligence information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in paragraph (h)(1), (2), or (3), of this section, as appropriate:

Warning Notice—Sensitive Intelligence
Sources and Methods Involved

ACCESS TO CLASSIFIED MATERIALS

§ 3a.41 Access requirements.

(a) The Personnel Security Officer, on a continuing current basis, will certify to the Security Officer, the head of each bureau and office and each regional engineer, the names of officers and employees who have been granted a security clearance for access to classified material and the level of such clearance (Top Secret, Secret, Confidential). The Personnel Security Officer will maintain accurate and current listings of personnel who have been granted security clearances in accordance with the standards and criteria of Executive Orders 10450 and 10865 and as prescribed by this part.

(b) In addition to a security clearance, staff members must have a need for access to classified information or material in connection with the performance of duties. The determination for the need-to-know will be made by the official having responsibility for the classified information or material.

(c) When a staff member no longer requires access to classified information or material in connection with performance of official duties, the Personnel Security Officer will administratively withdraw the security clearance. Additionally, when a staff member no longer needs access to a particular security classification category, the security clearance will be adjusted to the classification category required. In both cases, this action will be without prejudice to the staff member's eligibility for a security clearance or upgrading of category should the need again arise.

(d) Access to classified informatio or material originated by the FPC ma be authorized to persons outside th Executive Branch of the Governmen engaged in historical research and t former Presidential appointees as provided in paragraphs VI B and C of th NSC directive dated May 17, 1972. Th determination of access authorizatio will be made by the Chairman.

(e) Except as otherwise provided i section 102 of the National Securit Act of 1947, 61 Stat. 495, 50 U.S.C. 403 classified information or material originating in one department or agenc shall not be disseminated outside an other department or agency to which it has been made available without the consent of the originating organization.

SECURITY OFFICERS

§ 3a.51 Designation of security officers.

(a) The Director, Office of Administrative Operations (OAO) is designated as Top Secret Control Officer and Security Officer for classified material for the Federal Power Commission. The Director, OAO, will designate alternate Top Secret Control Officers and alternated Security Officers., who will be authorized, subject to such limitations as may be imposed by the Director, to perform the duties for which the Top Secret Control Officer and Security Officer is responsible. As used hereinafter, the terms Top Secret Control Officer and Security Officer shall be interpreted as including the alternate Top Secret Control Officers and Security Officers. The FPC Security Officer is authorized and directed to insure the proper application of the provisions of Executive Order 11652 and of this part.

(b) Regional Engineers are designated as Regional Security Officers for the purpose of carrying out the functions assigned herein.

(c) The Director, OAO, will appoint in writing appropriately cleared staff members to act as couriers for transmittal, as necessary, for classified information or material.

STORAGE AND CUSTODY OF CLASSIFIED INFORMATION

§ 3a.61 Storage and custody of classified information.

(a) Unless specifically authorized by the Chairman or Executive Director, classified information and materials within the Washington office will be stored only in GSA-approved security containers in the Office of Administrative Operations. Such containers will be of steel construction with built-in, three-position, dial-type, manipulation-proof, changeable combination locks.

(b) A custodian and one or more alternate custodians will be assigned responsibility for the security of each container under his jurisdiction in which classified information is stored. Such assignment will be made a matter of record by executing GSA Optional Form 63, Classified Container Registration, and affixing it to the container concerned. Custodians will be responsible for assuring that combinations are changed as required and that locking and checking functions are accomplished daily in compliance with paragraphs (g) and (h) of this section.

(c) GSA Optional Form 63 is a 3-sheet form, each sheet having a specific purpose and disposition, as follows:

(1) Sheet 1 records the names, addresses, and home telephone numbers of the custodian and alternate custodians. Sheet 1 is affixed to the outside of the container.

(2) Sheet 2 records the combination of the container and is placed inside Sheet 3, which is an envelope.

(3) Sheet 3; an envelope, is a carbon copy of Sheet 1. When the container combination is recorded on Sheet 2, it is sealed inside Sheet 3 which is then forwarded to the FPC Top Secret Control Officer.

(d) GSA Optional Form 62, Safe or Cabinet Security Record, will be attached conspicuously to the outside of each container used to store classified information. The form is used to certify the opening and locking of a container, and the checking of a container at the end of each working day or whenever it is opened and locked during the day.

(e) Combinations of containers used to store classified materials will be assigned classifications equal to the highest category of classified information stored therein. Active combinations are subject to the safeguarding and receipting requirements of this instruction. Superseded combinations become declassified automatically and certificates of destruction therefore are unnecessary.

(f) Knowledge of or access to the combination of a container used for the storage of classified material will be given only to those appropriately cleared individuals who are authorized access to the information stored therein.

(g) Combinations of containers used to store classified material will be changed at least once a year. A combination will be changed also whenever anyone knowing or having access to it is transferred; when the combination has been subjected to compromise; when the security classification of the container is upgraded; and at any other time as may be deemed necessary. Combinations to locks on security containers will be changed only by individuals having a security clearance equal to the highest category of classified material stored therein. Changing lock combinations is a responsibility of OAO. (See FPC Special Instruction No. AM 2162.2, Periodic Change of Combination on Locks.)

(h) The individual who unlocks a container will indicate the date and time and initial entry on GSA Optional Form 62. At the close of each workday, or when the container is locked at earlier time, the individual locking the container will make the appropriate entry on GSA Optional Form 62. An individual other than the one who locked the container will check to insure that it is properly closed and locked and will make the appropriate entry on GSA Optional Form 62. When a container has not been opened during the day, the checker will enter the date and the notation "Not Opened" and make appropriate entry in the "Checked By" column.

(i) The red and white reversible "Closed-Open" cardboard sign will be used on all classified containers to indicate whether the container is open or locked.

(j) Typewriter ribbons used in the preparation of classified information will be safeguarded in the manner appropriate for the degree of classification involved. Cloth ribbons are considered insecure until both upper and lower lines have been cycled through the typewriter at least twice. Carbon paper or film ribbons are insecure at all times since the imprint thereon cannot be obliterated and such ribbon must be destroyed as classified waste. Insecure ribbons will not be left in typewriters overnight but will be stored in appropriate classified container.

ACCOUNTABILITY FOR CLASSIFIED MATERIAL

§ 3a.71 Accountability for classified material.

(a) The Office of Administrative Operations is the central control registry for the receipt and dispatch of classified material in the Washington office and maintains the accountability register of all classified material. In addition, each Regional Engineer will maintain an accountability register for classified material of which he has custody.

(b) With the exception of the Chairman, Vice Chairman, and Executive Director, no individual, bureau, or office is authorized to receive, open, or dispatch classified material other than the authorized personnel in OAO or the Regional Engineers. Classified material received by other than the OAO or Regional Engineers will be delivered promptly and unopened to the Security Officer or Regional Engineer in order that it may be brought under accountable control.

(c) Each classified document received by or originating in the FPC will be assigned an individual control number by the central control registry, OAO. Control numbers will be assigned serially within a calendar year. The first digit of the four-digit control number will indicate the calendar year in which the document was originated or received in the FPC. Control numbers assigned to top secret material will be separate from the sequence for other classified material and will b prefixed by the letters "TS". Exam ples:

9006—Sixth classified document controlle by the central control registry in calenda year 1969.

TS 1006—Sixth Top Secret document co trolled by the central control registry calendar year 1971.

(d) The accounting system for co trol of classified documents will be e fected through the use of FPC For 55, Classified Document Contr Record and Receipt. This form will b used to:

(1) Register an accurate, unclassifie description of the document; its a signed control number; and the date is placed under accountability.

(2) Serve as the accountability regi ter for classified material.

(3) Record all changes in status custody of the document during classification life or the period it is re tained under accountability in th FPC.

(4) Serve as the principal basis f all classified document inventory a tracer actions.

(5) Serve as a receipt for the centr control registry when the document transferred.

(e) For Top Secret documents on an access register, FPC Form 120 Top Secret Access Record, for record ing the names of all individuals havin access to the document, will be pre pared in addition to FPC Form 55. I addition, a physical inventory of a Top Secret documents will be conduct ed during June of each year by th Top Secret Control Officer and wi nessed by a staff member holding Top Secret clearance.

(f) When classified documents a regraded, declassified, or destroye the change in status will be recorde in the file copy of FPC Form 55 in th central control registry.

(g) Classified documents will not b reproduced by any means except the specific written authority of th FPC Security Officer.

(h) In the Washington Office, clas fied material will be destroyed b OAO and will be accomplished b burning in the presence of a "destr ing official" and a "witnessing off cial." Destroying and witnessing officials will be alternate Security Officers from OAO. A record of destruction of each classified document will be maintained on FPC Form 1285. Classified Document Destruction Certificate. In addition, the date of destruction and the destruction certificate number will be recorded on the file copy of FPC Form 55 in the central control registry. The original signed copy of the destruction certificate will be retained in the central control registry. The duplicate copy will be retained by the destroying official. Regional Engineers will follow these instructions for destruction of classified material in their possession, except that the destroying official shall be the Regional Engineer and the witnessing official shall be any other individual having appropriate security clearance.

(i) It is the responsibility of any staff member who has knowledge of the loss or possible compromise of classified information immediately to report the circumstances to the Director, OAO. The Director, OAO, will notify the originating Department and any other interested Department of the loss or possible compromise in order that a damage assessment can be conducted. An immediate inquiry will be initiated by the Director, OAO, for the purpose of taking corrective action and for recommendations to the chairman, through the Review Committee, for appropriate administrative, disciplinary, or legal action.

TRANSMITTAL OF CLASSIFIED MATERIAL

§ 3a.81 Transmittal of classified material.

(a) A continuous receipting system, using copies of FPC Form 55, will record all transfers of classified items between elements or officials within the FPC. Receipts for transmittal of classified items from the central registry to the first recipient will be acknowledged on copy number one (original) of FPC Form 55. This copy will be returned to and become part of the central register, where it will remain as an active record until the form is either destroyed or transmitted outside the FPC central registry system. Receipts for subsequent transmittals through the FPC will be recorded on the remaining copies of FPC Form 55.

(b) A recipient will acknowledge receipt and assumption of custody of classified material exactly as it is described on FPC Form 55. If it is determined that parts are missing, it is incorrectly numbered, or otherwise recorded in error on FPC Form 55. The recipient will not sign for the material but will return it promptly to the transmitting element, notifying them accordingly.

(c) Whenever a classified or protected document is being internally transmitted, or is in use, it will be covered by either FPC Label 19, Top Secret Cover Sheet (yellow); FPC Label 20, Secret Cover Sheet (red); FPC Label 21, Confidential Cover Sheet (blue), or FPC Label 22, Official Use Only (Limited Official Use) green. In addition, the red back sheet, FPC Label 23, will be used. With the exception of the FPC Form 55, no transmittal paper or other material will be placed over the label, and no writing will be applied thereon.

(d) The transmission or transfer of custody of classified material outside of the FPC Washington offices or the Regional Offices will be covered by FPC Form 1284, Classified Document Receipt and/or Tracer, prepared in duplicate (one post card and one paper copy). The post card will be enclosed, along with the material being transferred, in the inner envelope, wrapping or container, and the paper copy retained in the central registry pending return of the signed post card.

(e) Classified material transmitted outside of the FPC Washington offices or the Regional Offices will be dispatched in two opaque envelopes or double wrapped in opaque wrapping paper. The outgoing material will be prepared for transmission by:

(1) Preparing and enclosing an appropriate receipt (see paragraph (d) of this section) in the inner envelope or wrapping.

(2) Addressing, return addressing, and sealing or taping the inner envelope or wrapping.

(3) Marking the security classification and other required notations on the front and back of the inner cover.

If the nature of the contents deem it necessary or advisable, the inner cover may be marked with the following or a similar notation "To Be Opened By Addressee Only." When this notation is used, an appropriate "Attention" line must be contained in the address on the outer envelope to insure delivery to the intended recipient.

(4) Enclosing the inner envelope or wrapping in an opaque outer envelope wrapper containing the appropriate address information. These outer covers will not contain any of the markings contained on the inner cover. If the outer cover does not fully conceal the markings on the inner envelope or wrapper, a sheet of plain paper should be folded around the inner wrapper to conceal the markings.

(f) Transmittal of Top Secret information and material shall be effected preferably by oral discussion in person between the officials concerned. Otherwise the transmission of Top Secret information and material shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, over authorized communications circuits in encrypted form or by other means authorized by the National Security Council.

(g) Transmittal of material classified Secret or Confidential to any addressee in the 48 contiguous States and the District of Columbia, the State of Hawaii, the State of Alaska, the Commonwealth of Puerto Rico, and Canadian Government installations by the FPC Washington offices or the Regional offices will be by registered mail only. Transmittal outside these specified areas will be as stated in paragraph C(2), Appendix B, of the NSC Directive of May 17, 1972.

DATA INDEX SYSTEM

§ 3a.91 Data index system.

A data index system shall be established for Top Secret, Secret, and Confidential information in selected categories prescribed by the Interagency Classification Review Committee, in accordance with section VII of the National Security Council Directive Governing the Classification, Downgrading, Declassification, and Safeguardin of National Security Information, Ma 17, 1972.

PART 3b—COLLECTION, MAINTENANCE, USE, AND DISSEMINATIO OF RECORDS OF IDENTIFIABL PERSONAL INFORMATION

Subpart A—General

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Subpart D—Rules for Exemptions

3b.250 Specific exemptions.

AUTHORITY: Federal Power Act, as amended, sec. 309, 49 Stat. 858-859 (16 U.S.C. 825h); Natural Gas Act, as amended, sec. 16, 52 Stat. 830 (15 U.S.C. 717o); and Pub. L. 93-579 (88 Stat. 1896).

SOURCE: Order 526, 40 FR 44288, Sept. 2 1975, unless otherwise noted.

Subpart A—General

§ 3b.1 Purpose.

Part 3b describes the Federal Power Commission's program to implement the provisions of the Privacy Act of 1974 (Pub. L. No. 93-579, 88 Stat. 1896) to allow individuals to have a say the collection and use of information which may be used in determinations affecting them. The program is structured to permit an individual to determine what records pertaining to him and filed under his individual name, or some other identifying particular, are collected, maintained, used or disseminated by the Commission, to permit him access to such records, and to correct or amend them, and to provide that the Commission collect, use, maintain and disseminate such information in a lawful manner for a necessary purpose.

§ 3b.2 Definitions.

In this part:

(a) "Agency", as defined in 5 U.S.C. 551(1) as "* * * each authority of the Government of the United States, whether or not it is within or subject to review by another agency, * * *", includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency [5 U.S.C. 552(e)];

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) "Maintain" includes, maintain, collect, use, or disseminate;

(d) "Record" means any item, collection or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(e) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(f) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13 of the United States Code;

(g) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected; and

(h) "Disclosure" means either the transmittal of a copy of a record or the granting of access to a record, by oral, written, electronic or mechanical communication.

§ 3b.3 Notice requirements.

(a) The Commission will publish at least annually in the FEDERAL REGISTER a notice identifying the systems of records currently maintained by the Commission. For each system of records, the notice will include the following information:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) The specific statutory provision or executive order, or rule or regulation issued pursuant thereto, authorizing the maintenance of the information contained in the system;

(5) Each routine use of the records contained in the system, including the categories of users and the purposes of such use;

(6) The policies and practices regarding the storage, retrievability, access controls, and retention and disposal of the records;

(7) The title and business address of the Commission official who is responsible for the system of records;

(8) The procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(9) The procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its contents; and

(10) The categories of sources of records in the system.

(b) At least thirty days prior to its operation, the Commission will publish in the FEDERAL REGISTER a notice of its intention to establish a new system of records reciting the information required pursuant to paragraphs (a) (1) through (10) of this section and notice of any major change to an existing system.

(c) The Commission will publish in the FEDERAL REGISTER a notice of its intention to establish any new or intended routine use of the information in an existing system of records at least thirty days prior to the disclosure of the record for that routine use. A new routine use is one which involves disclosure of records for a new purpose compatible with the purpose for which the record is maintained or which involves disclosure to a new recipient or category of recipients. At a minimum, the notice will contain the following information:

(1) The name of the system of records for which the routine use is to be established;

(2) The authority authorizing the maintenance of the information contained in the system;

(3) The categories of records maintained in the system;

(4) The proposed routine use(s);

(5) The categories of recipients for each proposed routine use; and

(6) Reference to the public notice in the FEDERAL REGISTER under which the existing system had already been published.

§ 3b.4 Government contractors.

Systems of records operated by a contractor, pursuant to a "contract," on behalf of the Commission, which are designed to accomplish a Commission function, are considered, for the purposes of this part, to be maintained by the Commission. A "contract" covers any contract, written or oral, subject to the Federal Procurement Regulations. The contractual instrument will specify, to the extent consistent with the Commission's authority to require it, that the systems of records be maintained in accordance with the requirements of this part.

§ 3b.5 Legal guardians.

For the purposes of this part, th parent of any minor, or the leg guardian of any individual who ha been declared to be incompetent du to physical or mental incapacity or ag by a court of competent jurisdictio may act on behalf of the individual.

Subpart B—Standards for Maintenance and Collection of Recor

§ 3b.201 Content of records.

(a) All records which are maintaine by the Commission in a system records will contain only such info mation about an individual that is re evant and necessary to accomplish purpose of the Commission as r quired to be accomplished by statu or by executive order of the Presiden Pursuant to § 3b.3(a)(4) of this par the Commission will identify in th FEDERAL REGISTER the specific prov sions in law which authorize it maintain information in a system records. In determining the "re evance" and "necessity" of record the following considerations w govern:

(1) Whether each item of inform tion relates to the purposes, in law, which the system is maintained;

(2) The adverse consequences, if an of not collecting the information;

(3) Whether the need for the info mation could be met through th maintenance of the information in non-individually identifiable form;

(4) Whether the information in th record is required to be collected every individual who is the subject a record in the system or whether sampling procedure would suffice;

(5) The length of time it is necessa to retain the information;

(6) The financial cost of maintaini the record as compared to the advers consequences of not maintaining and

(7) Whether the information, wh generally relevant and necessary to a complish a statutory purpose, is speci ically relevant and necessary only certain cases.

(b) All records which the Commi sion maintains in a system of recor and which are used to make a deter nation about an individual will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Where practicable, in questionable instances, reverification of pertinent information with the individual to whom the record pertains may be appropriate. In pursuit of "completeness" in the collection of information, the Commission will limit its records to those elements of information which clearly bear on the determination for which the records are intended to be used, assuring that all elements necessary to the determination are present before the determination is made.

(c) Prior to disseminating any records in a system of records, the Commission will make reasonable efforts to assure that such records are as accurate, relevant, timely, and complete as appropriate for the purposes for which they are collected and/or maintained, except when they are disclosed to a member of the public under the Freedom of Information Act, 5 U.S.C. 552, as amended, or to another agency.

(d) No records of the Commission in a system of records shall describe how any individual exercises his First Amendment rights unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and of the press, and freedom of assembly and petition. In determining whether or not a particular activity constitutes the exercise of a right guaranteed by the First Amendment, the Commission will apply the broadest reasonable interpretation.

§ 3b.202 Collection of information from individuals concerned.

(a) Any information collected by the Commission for inclusion in a system of records which may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs, will, to the greatest extent practicable, be collected directly from the subject individual (see paragraph (d) of this section).

(b) The Commission will inform each individual whom it asks to supply information about himself, on the form which it uses to collect the information, or on a separate sheet that can be easily retained by the individual, in language which is explicit, informative, and easily understood, and not so lengthy as to deter an individual from reading it, of:

(1) The specific provision of the statute or executive order of the President, including the brief title or subject of that statute or order which authorizes the solicitation of the information; whether disclosure of such information is mandatory or voluntary; and whether the Commission is authorized or required to impose penalties for failing to respond;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as described in the FEDERAL REGISTER in the notice of the system of records in which the information is maintained, and which are relatable and necessary to a purpose described pursuant to paragraph (b)(2) of this section; and

(4) The effects (beneficial and adverse) on the individual if any, of not providing all or any part of the requested information.

(c) Social security numbers will not be required from individuals whom the Commission asks to supply information unless the disclosure of the number is required by Federal statute or unless disclosure is to the Commission maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required pursuant to a statute or regulation adopted prior to such date to verify the identity of an individual. When an individual is requested to disclose his social security number to the Commission, he will be informed under what statutory or other authority such number is solicited, what uses will be made of it, whether disclosure is mandatory or voluntary, and if it is mandatory, under what provisions of law or regulation.

(d) The use of third-party sources to collect information about an individual may be appropriate in certain circumstances. In determining when the use of third-party sources would be appropriate, the following considerations will govern:

(1) When the information needed can only be obtained from a third party;

(2) When the cost of collecting the information directly from the individual concerned far exceeds the cost of collecting it from a third party;

(3) When there is little risk that the information proposed to be collected from the third party, if inaccurate, could result in an adverse determination about the individual concerned.

(4) When there is a need to insure the accuracy of information supplied by an individual by verifying it with a third party, or there is a need to obtain a qualitative assessment of the individual's capabilities or character; or

(5) When there are provisions for verifying any third-party information with the individual concerned before making a determination based on that information.

Third party sources, where feasible, will be informed of the purposes for which information which they are asked to provide will be used. In appropriate circumstances, pursuant to 5 U.S.C. 552a(k) (2), (5), and (7), the Commission may assure a third party that his identity will not be revealed to the subject of the collected information.

§ 3b.203 Rules of conduct.

(a) The Executive Director of the Commission has the overall administrative responsibility for implementing the provisions of the Privacy Act of 1974 and overseeing the conduct of all Commission employees with respect to the act.

(b) It is the responsibility of the Comptroller of the Commission, under the guidance of the Executive Director, to prepare the appropriate internal administrative procedures to assure that all persons involved in the design, development, or operation of any system of records, or in collecting, using, or disseminating any individual record, and who have access to any system of records, are informed of all rules and requirements of the Commission to protect the privacy of the individuals who are the subjects of the records, including the applicable provisions of the FPC Standards of Conduct for Employees, Special Government Employees and Commissioners, specifically 18 CFR 3.207(e) and 3.228(d).

(c) The Director, Office of Personnel Programs, is responsible for establishing and conducting an adequate training program for such persons whose official duties require access to and collection, maintenance, use, and dissemination of such records.

(d) The General Counsel of the Commission is responsible for providing legal interpretation of the Privacy Act of 1974, and for preparing all agency rules and notices for official publication in compliance with the act.

(e) Commission employees will be informed of all the implications of their actions in this area, including especially:

(1) That there are criminal penalties for knowing and willful unauthorized disclosure of material within a system of records; for willful failure to publish a public notice of the existence of a system of records; and for knowingly and willfully requesting or obtaining records under false pretenses;

(2) That the Commission may be subject to civil suit due to failure to amend an individual's record in accordance with his request or failure to review his request in conformity with § 3b.224; refusal to comply with an individual's request of access to a record under § 3b.221; willful or intentional failure to maintain a record accurately pursuant to § 3b.201(b) and consequently a determination is made which is adverse to the individual; or willful or intentional failure to comply with any other provision of the Privacy Act of 1974, or any rule promulgated thereunder, in such a way as to have an adverse effect upon an individual.

§ 3b.204 Safeguarding information in manual and computer-based record systems.

(a) The administrative and physical controls to protect the information in the manual and computer-based record systems from unauthorized access or disclosure will be specified for each system in the FEDERAL REGISTER. The system managers, who are responsible for providing protection and accountability of such records at all times and for insuring that the records are secured in proper containers whenever they are not in use or under direct control of authorized persons, will be identified for each system of records in the FEDERAL REGISTER.

(b) Whenever records in the manual or computer-based record systems, including input and output documents, punched cards, and magnetic tapes or disks, are not under the personal control of an authorized person, they will be stored in lockable containers and/or in a secured room, or in alternative storage systems which furnish an equivalent or greater degree of physical security. In this regard, the Commission may refer to security guidelines prepared by the General Services Administration, the Department of Commerce (National Bureau of Standards), or other agencies with appropriate knowledge and expertise.

(c) Access to and use of records will only be permitted to persons pursuant to §§ 3b.221, 3b.224, and 3b.225. Access to areas where records are stored will be limited to those persons whose official duties require work in such areas. Proper control of data, in any form, associated with the manual and computer-based record systems will be maintained at all times, including maintenance of an accounting of removal of the records from the storage area.

Subpart C—Rules for Disclosure of Records

§ 3b.220 Notification of maintenance of records to individuals concerned.

(a) Upon written request, either in person or by mail, to the appropriate system manager specified for each system of records, an individual will be notified whether a system of records maintained by the Commission and named by the individual contains a record or records pertaining to him and filed under his individual name, or some other identifying particular.

(b) The system manager may require appropriate identification pursuant to § 3b.222, and if necessary, may request from the individual additional information needed to locate the record which the individual should reasonably be expected to know, such as, but not limited to, date of birth, place of birth, and a parent's first name.

(c) When practicable, the system manager will provide a written acknowledgement of the inquiry within ten days of receipt of the inquiry (excluding Saturdays, Sundays and legal public holidays) and notification of whether or not a system of records maintained by the Commission and named by the individual contains a record pertaining to him and filed under his individual name or some other identifying particular. If the system manager is unable to provide an answer within the ten-day period, he will so inform the individual in writing, stating the reasons therefor (for good cause shown), and when it is anticipated that notification will be made. Such an extension will not exceed fifteen days from receipt of the inquiry (excluding Saturdays, Sundays, and legal public holidays).

(d) "For good cause shown", as used in all sections of this part, includes circumstances such as the following: Where a search for and/or collection of requested records from inactive storage, field offices, or other establishments is required; where a voluminous amount of data is involved; where information on other individuals must be separated or expunged from the record; or where consultations are required with other agencies or with others having a substantial interest in the determination of the request.

§ 3b.221 Access of records to individuals concerned.

(a) Upon written request, either in person or by mail, to the appropriate system manager specified for each system of records, any individual may gain access to records or information in a system of records pertaining to him and filed under his individual name, or some other identifying particular, to review and to have a copy made of all or any portion thereof in a form comprehensible to him.

(b) A person of his own choosing may accompany the individual to whom the record pertains when the record is disclosed [see § 3b.222(e)].

(c) Before disclosure, the following procedure may apply:

Medical or psychological records will be disclosed directly to the individual to whom they pertain unless, in the judgment of the system manager, in consultation with a medical doctor or a psychologist, access to such records could have an adverse effect upon the individual. When the system manager and a doctor determine that the disclosure of such information could have an adverse effect upon the individual to whom it pertains, the system manager may transmit such information to a medical doctor named by the requesting individual.

(d) The system manager will provide a written acknowledgement of the receipt of a request for access within ten days of receipt (excluding Saturdays, Sundays, and legal public holidays). Such acknowledgement may, if necessary, request any additional information needed to locate the record which the individual may reasonably be expected to know, and may require appropriate identification pursuant to § 3b.222 of this part. No acknowledgment is required if access can be granted within the ten-day period.

(1) If access can be granted, the system manager will notify the individual, in writing, as to when, and whether access will be granted in person or by mail, so that access will be provided within twenty days of the receipt of the request (excluding Saturdays, Sundays, and legal public holidays). If the system manager is unable to provide access within twenty days of receipt of the request, he will inform the individual in writing as to the reasons therefor (for good cause shown), and when it is anticipated that access will be granted. If the expected date of access indicated in the written notification to the individual cannot be met, the system manager will advise the individual in writing of
the delay, the reasons therefo
good cause shown), and of a r
date when access will be granted.
extensions will not exceed thirty
from receipt of the request (excl
Saturdays, Sundays, and legal
holidays).

(2) If access cannot be grante
system manager will inform the
vidual, in writing, within twenty
of receipt of the request (excl
Saturdays, Sundays, and legal
holidays) of the refusal of his re
the reasons for the refusal; the
of the individual, within thirty d
receipt of the refusal, to requ
writing a review of the refusal b
Chairman of the Federal Power
mission, 825 North Capitol Stree
Washington, DC 20426, or by a
cer designated by the Chairma
suant to § 3b.224(f); and the ri
the individual to seek advice or
ance from the system manager
taining such a review.

(e) The Chairman, or officer
nated pursuant to § 3b.224(f), no
than thirty days (excluding Satu
Sundays, and legal public hol
from the date of receipt of the in
ual's request for review will com
such review, unless, for good
shown, the Chairman, or desig
officer, extends the thirty-day
in writing to the individual wit
sons for the delay and the ap
mate date on which the review
pected to be completed. Such
tension will not exceed thirty-fiv
from receipt of the request for
(excluding Saturdays, Sunday
legal public holidays). The Cha
or designated officer, will make
the following determinations:

(1) Grant the individual acc
the requested record and notify
dividual, in writing, as to whe
whether access will be grant
person or by mail; or

(2) Inform the individual in w
of the refusal, the reasons the
and the right of the individual t
judicial review of the refusal of
quest for access.

(f)(1) The Commission will de
individual access to the fol
records pertaining to him:

(i) Information compiled in reasonable anticipation of a civil action or proceeding;

(ii) Records listed in the FEDERAL REGISTER as exempt from certain provisions of the Privacy Act of 1974, pursuant to Subpart D of this part; and

(iii) Records which may be required to be withheld under other statutory provisions.

(2) The Commission will not deny an individual access to a record pertaining to him because that record is permitted to be withheld from members of the public under the Freedom of Information Act, 5 U.S.C. 552, as amended.

(g) Disclosure of an original record will take place in the presence of the Commission representative having physical custody of the record.

§ 3b.222 Identification requirements.

The appropriate system manager specified for each system of records will require reasonable identification from individuals to assure that records in a system of records are disclosed to the proper person. Identification requirements will be consistent with the nature of the records being disclosed.

(a) Disclosure of records to the individual to whom the record pertains, or under whose name or some other identifying particular the record is filed, in person, requires that the individual show an identification card. Employee identification, a Medicare card, or a driver's license are examples of acceptable identification. Documents incorporating a picture and signature of the individual are preferred.

(b) For records disclosed by mail, the system manager will require certain minimum identifying information: name, date of birth, or the system's personal identifier if known to the individual. A comparison of the signatures of the requester and those in the record will be used to determine identity.

(c) If the system manager determines that the data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual involved, a signed notarized statement asserting identity or some other reasonable means to verify identity will be required.

(d) If an individual can provide no suitable information or documents for identification, the system manager will require a signed statement from the individual asserting his identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about an individual under false pretenses is a misdemeanor punishable by a fine of up to $5,000.

(e) The system manager will require an individual who wishes to be accompanied by another person when reviewing his records to furnish a signed written statement authorizing discussion of his records in the presence of the accompanying person.

(f) The appropriate identification requirements of this section may be required by a system manager from an individual to whom a record does not pertain who seeks access to the record pursuant to § 3b.225 of this part.

(g) No individual will be denied notification of maintenance of a record pursuant to § 3b.220 or access to a record pursuant to §§ 3b.221 and 3b.224 for refusing to disclose a social security number.

(h) No verification of identity will be required of individuals seeking notification of or access to records which are otherwise available to a member of the public under the Freedom of Information Act, 5 U.S.C. 552, as amended.

§ 3b.223 Fees.

(a) Fees will be charged for the direct cost of duplication of records in a system of records when copies are requested by the individual seeking access to the records. Any person may obtain a copy of the Commission's schedule of fees by telephone, by mail or by coming in person to the office of the appropriate system manager who is responsible for the protection and accountability of the desired record. Requests for copies of requested records and payment therefor must be made to the system manager. Fees will only be charged for costs of $2 or more.

(b) Where practicable, self-service duplication of requested documents may also be made on duplicating machines by the person requesting the records, on a reimbursable basis to the system manager, in the presence of the Commission representative having physical custody of the record. Where data has been extracted from one of the Commission's systems of records on magnetic tape or disks, or computer files, copies of the records of these files may be secured on a reimbursable basis upon written request to the appropriate system manager. The fee will vary for each requirement, depending on size and complexity.

(c) No fee will be charged in the following instances:

(1) When the system manager determines that he can grant access to records only by providing a copy of the record through the mail because he cannot provide reasonable means for the individual to have access in person;

(2) For search and review of requested records to determine if they fall within the disclosure requirements of this part; and

(3) When the system manager makes a copy of the record as a necessary part of the process of making it available for review.

(d) Except for requests made by Government agencies, certification of copies of any official Commission record shall be accompanied by a fee of $2 per document.

§ 3b.224 Requests to amend records and disputes thereon.

(a) Upon written request, either in person or by mail, to the appropriate system manager specified for each system of records, any individual may amend records in a system of records pertaining to him and filed under his individual name or some other identifying particular. Such requests should contain identifying information needed to locate the record, a brief description of the item or items of information to be amended, and information in support of the request for amendment. The individual may obtain assistance in preparing his request to amend a record from the appropriate system manager.

(b) The system manager will provide a written acknowledgement of the receipt of a request to amend within ten
days of receipt (excluding Satur
Sundays, and legal public holid
Such an acknowledgement may, if
essary, request any additional i
mation needed to make a detern
tion which the individual may re
ably be expected to know, and ver
tion of identity consistent
§ 3b.222. The acknowledgement
clearly describe the request and a
the individual requesting the am
ment when he may expect to be
fied of action taken on the reques
acknowledgement is required if th
quest can be reviewed, processed,
the individual notified of compli
or denial within the ten-day perioc

(c) The system manager will
plete the review and advise the
vidual in writing of the results wi
twenty days of the receipt of the
quest (excluding Saturdays, Sunc
and legal public holidays). If
system manager is unable to comp
the review within twenty days of
receipt of the request, he will inf
the individual in writing as to the
sons therefor (for good cause sho
and when it is anticipated that
review will be completed. If the c
pletion date for the review indicate
the acknowledgement cannot be
the system manager will advise the
dividual in writing of the delay,
reasons therefor (for good c
shown), and of a revised date w
the review may be expected to be c
pleted. Such extensions will
exceed thirty days from receipt of
request (excluding Saturdays, S
days, and legal public holidays).
system manager will take one of
following actions:

(1) Make the requested correction
amendment; so advise the individua
writing; and, where an accounting
the disclosure of the record was m
pursuant to § 3b.226, advise all pr
ous recipients of the record in wri
of the fact that the amendment
made and the substance of the ame
ment [see § 3b.225(d)]; or

(2) Inform the individual in wri
of the refusal to amend the recor
accordance with the request; the r
sons for the refusal including an
the standards which were emplo
pursuant to paragraph (d) of this
tion in conducting the review;

right of the individual, within thirty days of receipt of the refusal, to request in writing a review of the refusal by the Chairman of the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, or by an officer designated by the Chairman pursuant to paragraph (f) of this section; and the right of the individual to seek advice or assistance from the system manager in obtaining such a review.

(d) In reviewing a record in response to a request to amend, the system manager and the Chairman, or the officer he designates pursuant to paragraph (f) of this section, shall assess the accuracy, relevance, timeliness and completeness of the record. They shall consider the record in terms of the criteria established in § 3b.201 of this part.

(e) The Chairman, or officer designated pursuant to paragraph (f) of this section, not later than thirty days (excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the individual's request for review, will complete such review, unless, for good cause shown, the Chairman, or designated officer, extends the thirty-day period in a writing to the individual with reasons for the delay and the approximate date on which the review is expected to be completed. Such an extension will not exceed thirty-five days from receipt of the request for review (excluding Saturdays, Sundays, and legal public holidays). The Chairman, or designated officer, will make one of the following determinations:

(1) Make the correction in accordance with the individual's request and proceed as in paragraph (c)(1) of this section; or

(2) Inform the individual in writing of:

(i) The refusal to amend the record in accordance with the request,

(ii) The reasons therefor, including any of the standards which were employed pursuant to paragraph (d) of this section in conducting the review;

(iii) The right of the individual to file with the Chairman, or designated officer, a concise written statement setting forth the reasons for his disagreement with the decision;

(iv) The fact that the statement of disagreement will be made available to anyone to whom the record is subsequently disclosed, together with the portion of the record which is disputed clearly noted, and, with, at the discretion of the Chairman, or designated officer, a brief statement by the Chairman, or designated officer, summarizing the reasons for refusing to amend the record;

(v) Where an accounting of the disclosure of the record was made pursuant to § 3b.226 of this part, the fact that prior recipients of the disputed record will be provided a copy of the individual's statement of disagreement, with the portion of the record which is disputed clearly noted, and, at the Chairman's or designated officer's discretion, the statement summarizing the refusal to amend [see § 3b.225(d)]; and

(vi) The individual's right to seek judicial review of the refusal to amend.

(f) The Chairman may designate, in writing, another officer of the Commission to act in his capacity for the purposes of this part. The officer will be organizationally independent of or senior to the system manager who made the initial determination and will conduct a review independent of the initial determination.

§ 3b.225 Written consent for disclosure.

(a) The Commission will not disclose any record which is contained in a system of records by any means of communication to any person, or to any other agency, unless it has the written request by, or the prior written consent of, the individual to whom the record pertains and under whose individual name, or some other identifying particular, the record is filed. The written request or consent should include, at a minimum, the general purposes for or the types of recipients to whom disclosure may be made. The fact that an individual is informed of the purposes for which information will be used when information is collected pursuant to § 3b.202(b)(2) will not constitute consent.

(b) A written request or consent is not required if the disclosure is:

(1) To those officers and employees of the Commission who have a need for the record in the performance of their duties;

(2) Required under the provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended;

(3) For a routine use as defined in § 3b.2(g) of this part and as described in the public notice for each system of records;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(5) To a recipient who has provided the appropriate system manager specified for each system of records with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable. The written statement of assurance should include at a minimum:

(i) A statement of the purpose for requesting the record; and

(ii) Certification that the record will only be used for statistical purposes.

In addition to stripping personally identifying information from records released for statistical purposes, the system manager will ensure that the identity of the individual cannot reasonably be deduced or determined by combining various statistical records, or by reference to public records or other available sources of information;

(6) To the National Archives of the United States, pursuant to 44 U.S.C. 2103, as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for the evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality, or his delegated official, has made a written request to the appropriate system manager specifying the particular portion of the record desired and the law enforcement activity for which the record is being sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual (not necessarily the individual to whom the record pertains), if, upon disclosure, notification of such is sent to the last known address of the individual to whom the record pertains;

(9) To either House of Congress, or to any committee or subcommittee thereof, on a matter within its jurisdiction;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(c) When a record is disclosed under compulsory legal process and such process becomes a matter of public record, the system manager will make reasonable efforts to notify the individual to whom the record pertains. A notice will be sent to the individual's last known address noted in the Commission's files.

(d) The appropriate system manager shall notify all prior recipients of records, disclosure to whom an accounting was made pursuant to § 3b.226, of any amendments made to the records, including corrections, amendments and notations of dispute made pursuant to §§ 3b.224(c)(1) and 3b.224(e)(1) and (2)(v), within ten days of receipt of the corrected information or notation of dispute (excluding Saturdays, Sundays, and legal public holidays), except under unusual circumstances [see circumstances described in § 3b.220(d)].

(e) The content of the records disclosed under this section shall be maintained pursuant to the standards established in § 3b.201(c).

§ 3b.226 Accounting of disclosures.

(a) The appropriate system manager specified for each system of records will keep an accurate written account of all disclosures of records made to any person or to any other agency with the written consent or at the written request of the individual to whom the record pertains and pursuant to § 3b.225(b)(3) through (11). The account will include the following information:

(1) The date, nature, and purpose of each disclosure;

(2) The name and address of the person or agency to whom the disclosure is made; and

(3) A reference to the justification or basis upon which the release was made, including reference to any written document required as when records are released for statistical or law enforcement purposes pursuant to § 3b.225(b) (5) and (7).

(b) Each system manager will retain the accounting made under paragraph (a) of this section for at least five years from the date of disclosure for which the accounting is made, or the life of the record, which ever is longer.

(c) Except for disclosures made for law enforcement purposes pursuant to § 3b.225(b)(7), and unless the system of records has been exempted from this provision pursuant to Subpart D of this part, each system manager will make the accounting made under paragraph (a) of this section available to the individual named in the record at his written request.

(d) The accounting of disclosures is not a system of records under the definition in § 3b.2(e) and no accounting will be maintained for disclosure of the accounting of disclosures.

§ 3b.227 Mailing lists.

An individual's name and address maintained' by the Commission will not be sold or rented for commercial or other solicitation purposes not related to the purposes for which the information was collected, unless such sale or rental is specifically authorized by law. This provision shall not be construed to require the withholding of names or addresses otherwise permitted to be made public, as pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended.

Subpart D—Rules for Exemptions

§ 3b.250 Specific exemptions.

Any system of records maintained by the Commission may be exempt from certain provisions of the Privacy Act of 1974, and the appropriate sections of this part promulgated pursuant thereto, if the following requirements are met:

(a) The system of records falls within one or more of the following categories:

(1) Records subject to the provisions of 5 U.S.C. 552(b)(1) as classified material;

(2) Investigatory material compiled for law enforcement purposes [except to the extent that the system is more broadly exempt under 5 U.S.C. 552a(j)(2) covering records maintained by an agency whose principal function pertains to the enforcement of criminal laws] provided, however, that is such record is used as a basis for denying an individual any right, privilege, or benefit to which the individual would be entitled in the absence of that record, the individual must be granted access to that record except to the extent that access would reveal the identity of a confidential source who furnished the information to the Government under an express promise that his identity would be held in confidence, or, prior to September 27, 1975, under an implied promise that his identity would be held in confidence;

(3) Records maintained to provide protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(4) Records required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that his identity would be held in confidence, or, prior to September 27,

best copy available

1975, under an implied promise that his identity would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Material used to evaluate potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that his identity would be held in confidence, or, prior to September 27, 1975, under an implied promise that his identity would be held in confidence;

(b) Publication in the FEDERAL REGISTER is made in accordance with the requirements (including general public notice) of the Administrative Procedure Act, 5 U.S.C. 553, to include, at a minimum:

(1) The name of the system of records;

(2) The specific provision or provisions of the Privacy Act of 1974, and the appropriate sections of this Part promulgated pursuant thereto, from which the system is to be exempted; and

(3) The reasons for the exemption; and

(c) The system of records is exempted from one or more of the following provisions of the Privacy Act and the appropriate sections of this part promulgated pursuant thereto:

(1) 5 U.S.C. 552a(c)(3); 18 CFR 3b.226(c)—Making the accounting of disclosures available to the individual named in the record at his request;

(2) 5 U.S.C. 552a(d); 18 CFR 3b.221, 3b.224—Granting an individual the right of access to his records and permitting him to request amendment of such;

(3) 5 U.S.C. 552a(e)(1); 18 CFR 3b.201(a)—Requiring maintenance of relevant and necessary information in a system of records as required by statute or Executive order of the President;

(4) 5 U.S.C. 552a(e)(4)(G); 18 CFR 3b.3(a)(8)—Requiring a description of procedures for determining if a system contains a record on an individual in the public notice of the system of records;

(5) 5 U.S.C. 552a(e)(4)(H); 18 CFR 3b.3(a)(9)—Requiring a description of procedures for gaining access to and contesting the contents of a record in the public notice of the system of records;

(6) 5 U.S.C. 552a(e)(4)(I); 18 CFR 3b.3(a)(10)—Requiring a description of the categories of the sources of records in the public notice of the system of records; and

(7) 5 U.S.C. 552a(f); 18 CFR 3b.220-3b.224—Requiring agency rules for determining if an individual is the subject of a record, for handling requests for access, for granting requests for access, for amending records, and for fees.

PART 3c—STANDARDS OF CONDUCT

Subpart A—Standards of Conduct for Employees

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AUTHORITY: E.O. 11222, 3 CFR 1964-1965 Comp., p. 306; 5 CFR 735.104.

SOURCE: Order 532, 40 FR 29275, July 11, 1975, unless otherwise noted. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977.

Subpart A—Standards of Conduct for Employees

§ 3c.1 Purpose.

(a) The Commission recognizes that the maintenance of high standards of honesty, integrity, impartiality of Commission employees is essential to assure the proper performance of Commission business and the maintenance of confidence by citizens in the integrity of their Government. The avoidance of misconduct and conflicts of interest on the part of Commission employees through informed judgment is indispensable to the maintenance of these standards. The Commission, acting under authority conferred by the Federal Power Act and pursuant to sections 201(b) and 702 of Executive Order 11222 of May 8, 1965, 30 FR 6469 (3 CFR 1965 Supp., p. 130), as amended by Executive Order 11590 of April 22, 1971, 36 FR 7831, and the implementing regulations issued by the Civil Service Commission, 30 FR 12529, 5 CFR Part 735, issued this Subpart A to advise all Commission employees of the standards of conduct each is expected to observe while employed by the Federal Power Commission.

(b) The summaries of statutory provisions, such as the conflict of interest provisions of 18 U.S.C. 201-218, which appear in this Subpart A are not intended and should not be construed as verbatim quotations of the law. The statutes should be consulted in any situation in which they might apply. Section 3c.11 contains a list of applicable statutes and regulations for ready reference.

§ 3c.2 Coverage.

This Subpart A applies to Commission employees, whether on leave without pay, sick leave or annual leave except to the extent that they are expressly exempt from any of the specific provisions. It does not apply to special Government employees and Commissioners. Special Government employees are subject to the provisions of Subpart B of Part 3c of the Commission's Standard's of Conduct and Commissioners are subject to the provisions of Executive Order 11222 and Subpart C of this part.

§ 3c.3 Notice to employees.

Each employee shall be provided with a copy of this Subpart A. Employees shall be advised of this Subpart A at least once each year and shall be promptly informed of any change therein. New employees shall be provided with a copy of this Subpart A at the time of entrance on duty. All employees shall complete FPC Form 1119, acknowledging receipt of a copy of this Subpart A in accordance with the provisions of § 3c.7.

§ 3c.4 Definitions.

(a) "Conflict of interest" means a situation in which an employee's private interest, usually of an economic nature, conflicts or raises a reasonable question of potential conflict with the efficient and impartial conduct of his official duties and responsibilities. The conflict is of concern whether it is real or only apparent.

(b) "Employee" means an officer or employee of the Federal Power Commission but does not include a special Government employee or Commissioners.

(c) "Executive order" means Executive Order 11222 of May 8, 1965 (30 FR 6469) as amended by Executive Order 11590 of April 22, 1971 (36 FR 7831).

(d) "Member of employee's immediate household" means blood relations of the employee who are permanent residents of the employee's household.

(e) "Official responsibility" means "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct government action." (18 U.S.C. 202(b))

(f) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other group, organization or institution.

(g) "Serve" means to render service, whether with or without compensation.

(h) "Special Government employee" means a special Government employee as defined in section 202(a) of Title 18 of the United States Code, who is employed by the Commission.

> The term "special Government employee" shall mean an officer or employee of * * * any independent agency of the United States * * * who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either or a full-time or intermittent basis, * * * [18 U.S.C. 202(a)].

§ 3c.5 Conflicts of interest.

(a) *Outside compensation in matters affecting the government.* (1) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Commission. (18 U.S.C. 209)

(2) This prohibition does not prevent continued, participation in bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus or other employee welfare or benefit plans maintained by a former employer.

(3) An employee is prohibited from accepting any compensation, except as provided by law for the proper discharge of official duties, for any services rendered in relation to a particular matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 203)

(b) *Financial interests.* (1) An employee shall not:

(i) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Commission duties and responsibilities.

(ii) Engage, directly or indirectly, in a financial transaction as a result of, or primarily relying on, information obtained through his Commission employment.

(iii) These financial interests also include interests of the employee's spouse, minor child or member of his immediate household.

(2) An employee is prohibited, under penalty of fine or imprisonment, from participating personally and substantially as a Government officer or employee in any matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or person with whom he is negotiating for employment, has a financial interest. However, this prohibition does not apply if, prior to such participation, and upon complete disclosure of the financial interest, the Chairman[1] of the Commission determines that the employee's interest is not so substantial as to affect the employee's services to the Commission. (18 U.S.C. 208)

(3)(i) An employee or the spouse, minor child, or member of the immediate household of an employee shall not own, directly or indirectly, or participate in the purchase of any securities of any public utility, licensee, or natural gas company subject to the jurisdiction of the Commission. This prohibition shall also apply to securities of parent companies having jurisdictional subsidiaries or subsidiaries of jurisdictional parent companies. The prohibition shall not apply to investments in mutual funds or private investment groups where an employee or the spouse, minor child, or member of the immediate household of an employee does not have the right to participate in or control management decisions relating to what securities will be held in the funds. The prohibition shall not apply to investments in mutual savings banks.

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[1] As the Government official responsible for appointment of the employee to his position. In the case of Commissioners this determination is made by the President as the appointing official. In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, the determination is made by that Commissioner.

(ii) All employees shall report such securities and security acquisitions on appropriate forms in the manner and at the time specified in § 3c.7 (a), (b), and (d).

(iii) Such securities, regardless of the manner of acquisition, shall be disposed of promptly upon request by the Director, Office of Personnel Programs. Disposition of securities shall include sale of the securities or transfer of title of the securities into a "blind trust" which denies control and knowledge to the grantor of the securities held in trust. Should an employee decide to dispose of securities through a blind trust agreement it must first be approved by the Director of the Office of Personnel Programs upon review and advice of the General Counsel.

(iv) All employees shall submit reports on appropriate forms in the manner and at the time specified in § 3c.7 (a), (b), and (d) regarding:

(A) Any securities presently held directly or indirectly by the employee or his spouse, minor child, or member of his immediate household, in an enterprise whose status under the Federal Power Act or Natural Gas Act comes before the Commission for determination.

(B) Any securities owned by or personal interest of the employee or his spouse, minor child, or member of his immediate household in any person, firm, association, or corporation intervening on a matter before the Commission to which the employee has been assigned to work.

(c) *Gifts, entertainment, loans and favors.* (1) Unless permitted by paragraph (c)(2) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person who:

(i) Has or is seeking to obtain, approval or denial by the Commission of actions required under statute, or the Commission's rules and regulations; or

(ii) Conducts operations or activities which are regulated by the Commission or concerning which determinations of status are pending before the Commission; or

(iii) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission; or

(iv) Has interests which may be substantially affected by the performance or nonperformance of the employee's official duty; or

(v) Is in any way attempting to influence the employee's official actions.

(2) The requirements of paragraph (c)(1) of this section do not apply to:

(i) Obvious family or personal relationships where circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children, or spouses of employees.

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner, or other meeting or on an inspection tour where an employee may properly be in attendance. Employees on an inspection tour may also accept necessary arrangements for travel and lodging when no other reasonable alternatives are available.

(iii) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the employee, such as, for example, home mortgage loans.

(iv) Acceptance of unsolicited advertising or promotional material of nominal intrinsic value such as pens, pencils, note pads, calendars, and other similar items.

(3) An employee shall not:

(i) Solicit a contribution from another employee for a gift to an official superior;

(ii) Make a donation as a gift to an official superior; or

(iii) Accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351).

(4) The prohibitions of paragraphs (c) (1), (2), and (3) of this section are

not intended to prohibit voluntary gifts or donations of nominal value made to an employee on a special occasion such as marriage, illness, resignation or retirement.

(5) An employee shall not accept a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Pub. L. 89-673, 80 Stat. 952.

(d) *Representation of others.* (1) During Commission employment. An employee is prohibited, except as permitted in the proper discharge of his official duties or by express statutory exemption, from acting with or without compensation as agent or attorney before a court or Government agency in a matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 203 and 205) This prohibition does not prevent an employee from;

(i) Representing any person without compensation in disciplinary, loyalty, or other personnel matters, when not inconsistent with faithful performance of duty;

(ii) Representing, with or without compensation, a parent, spouse, child, or person or estate he serves as fiduciary, on matters in which the United States is a party or has an interest except matters subject to the employee's official responsibility or in which the employee has participated personally and substantially, if the employee has first obtained the express written approval of the Chairman of the Commission.[2]

(iii) Giving testimony under oath or making statements required to be made under penalty for perjury and contempt. (18 U.S.C. 205)

(2) Following termination of Commission employment. (i) An employee shall not, after his employment has ceased, knowingly act as agent or attorney for anyone other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the employee participated personally and substantially during his Commission employment. (18 U.S.C. 207(a))

(ii) An employee shall not, within 1 year after his Commission employment has ceased, appear personally before any court or Government agency as agent or attorney for any one other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was under his official responsibility as a Commission employee at any time within 1 year prior to the termination of such responsibility. (18 U.S.C. 207(b))

(3) Section 385.2103 of this chapter prohibits a former employee from acting as attorney, expert witness or representative in connection with any proceeding before the Commission in which the employee participated during his service with the Commission unless such appearance is expressly authorized by the Commission upon a verified showing that it would not be contrary to the public interest and unethical or prejudicial to the interests of the Commission or in violation of (d)(2) (i) and (ii), supra.

(e) *Outside employment.* (1) Incompatible activities. An employee shall not engage in outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Commission employment. Incompatible outside employment and activities include but are not limited to:

(i) Outside employment by a public utility, licensee, or natural gas company subject to the jurisdiction of the Commission, or by a parent corporation of any of the foregoing, or by a person whose status under the Federal Power Act or the Natural Gas Act is before the Commission for determination; or by a person in any Commission proceeding; or granted intervention; or

(ii) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

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[2] As the government official responsible for appointment of the employee to his position. In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, the determination is made by that Commissioner.

(iii) Outside employment which tends to impair the mental or physical capacity of the employee to perform his Commission duties and responsibilities in an acceptable manner; or

(iv) Outside employment under conditions or arrangements that may involve violation of law. See § 3.211 for a list of the main, relevant statutes and regulations. But see section 209(c) [16 U.S.C. 824(c)], Federal Power Act, and section 17(c), (15 U.S.C. 717p), Natural Gas Act, regarding availability to States of Commission experts as witnesses.

(2) Teaching, lecturing, writing. Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive Order, or the regulations in this Subpart C.

(i) Employees shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or of the Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of Commission employment, except when that information has been made available to the general public or will be made available on request or when the Executive Director has given written authorization for the use of nonpublic information on the basis that the use is in the public interest. For additional requirements and procedures relating to the misuse and disclosure of information see § 3c.6(b).

(ii) Employees shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission.

(3) An employee may not receive nongovernment reimbursement for travel or expenditures on official business.

(4) Limitations on prohibitions of paragraphs (e)(1), (2), and (3) of this section. The prohibitions of paragraphs (e)(1), (2), and (3) of this section do not preclude an employee from:

(i) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

(ii) Participation in the activites of national or state political parties not proscribed by law. But see § 3.211(d) for reference to the prohibitions against political activity.

(5) Procedure for reporting outside employment. Employees who are presently employed or intend to engage in any outside employment shall report this information on appropriate forms in the manner and at the time specified in § 3c.7(a)(1). Any employee who is uncertain of the propriety of any prospective outside employment under the provisions of this Subpart C shall submit an inquiry regarding the matter to the Agency Counselor in accordance with the provisions of § 3c.8.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.6 Ethical conduct.

(a) *Use of Government property.* An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

(b) *Misuse of information.* An employee shall not use inside information obtained as a result of his Commission employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. "Inside information" means information obtained under Commission authority which has not become part of the body of public information.

(c) Part 388 of this chapter sets up the procedures for making available to the public information in the public files and records of the Commission and specifies the particular files and records which are not generally available to the public. Section 388.107 of this chapter defines the responsibilities of employees when served with a subpoena duces tecum and outlines the procedures to be followed when the material sought is not part of the public files and records of the Commission.

(d) Section 301(b) [16 U.S.C. 825(c)], of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act prohibit any employee, in the absence of Commission or court direction, from divulging any fact or information which may come to his knowledge during the course of examination of books or other accounts.

(e) The nature and time of any proposed action by the Commission are confidential and shall not be divulged to anyone outside the Commission. The Secretary of the Commission has the exclusive responsibility and authority for authorizing the initial public releases of information concerning Commission actions or decisions.

(f) Section 385.2201 states the prohibitions against ex parte communications in on-the-record proceedings to Commissioners, members of their personal staffs, administrative law judges or other employees participating in the decision in such proceedings.

(g) *Indebtedness.* Employees shall pay each just financial obligation in a proper and timely manner especially one imposed by law such as Federal, State or local taxes. "A just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, the Commission shall not be required to determine the validity or amount of the disputed debt. Each employee should arrange his personal financial affairs to avoid any request to the Commission for administrative action to assist in the collection of debts.

(h) *Gambling, betting, and lotteries.* An employee shall not participate, while on government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device; in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. This paragraph does not preclude fund-raising activities by employee organizations under section 3 of Executive Order 10927, March 18, 1961, 26 FR 2383.

(i) *General conduct.* (1) Employees shall conduct themselves in such a manner that the work of the Commission is effectively accomplished and shall also observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

(2) Employees shall avoid any action, whether or not specifically prohibited by §§ 3c.5 and 3c.6 which might result in or create the appearance of:

(i) Using public office for private gain; or

(ii) Giving preferential treatment to any person; or

(iii) Losing complete independence or impartiality of action; or

(iv) Making a government decision outside official channels; or

(v) Impeding government efficiency or economy; or

(vi) Affecting adversely the confidence of the public in the integrity of the government and the Federal Power Commission.

(j) Employees shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government and to the Commission.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.7 Statements of employment and financial interests.

(a) *Forms.* A copy of each of the following forms is appended to this Subpart A.[3]

(1) FPC Form 498—Confidential Statement of Employment and Financial Interest.

(2) FPC Form 1119—Acknowledgment of Receipt of Standards of Conduct.

(b) *Place of submission.* All FPC forms listed in paragraph (a) section shall be submitted to the Office of Personnel Programs.

(c) *Commissioners are not required to submit.* Commissioners are subject to separate reporting requirements established under section 401 of the Executive Order and are therefore not required to submit FPC Forms 709, 1119 and 498.

(d) *Employees required to submit; time of submission.* (1) FPC Form 498 Confidential Statement of Employment and Financial Interest. All employees shall submit FPC Form 498:

(i) At the time of entrance on duty.

(ii) Within 30 days of the date of acquisition by the employee, employee's spouse, minor child, or member of the employee's immediate household of any security.

(iii) On June 30 of each year for the purpose of annual review. Where there are not changes in or additions to the original information submitted, a negative report shall be filed.

(iv) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that could result in a violation of the conflicts of interest provisions of § 3c.5.

(2) FPC Form 709—Report of outside employment. All new employees are required to submit FPC Form 709, at the time of entrance on duty. All employees engaged in outside employment on the effective date of this Subpart C shall submit FPC Form 709 within 30 days thereafter. All employees, who engage in outside employment after the effective date of this Subpart C shall submit FPC Form 709 on or before the time of entering upon such outside employment. See § 3c.5(e)(5).

(3) FPC Form 1119-Acknowledgment of Receipt of Standards of Conduct. All employees shall within 5 days after receipt of a copy of this Subpart A, as provided in § 3c.3 sign FPC Form 1119 and return it to the Director, Office of Personnel Programs.

(e) *Confidentiality.* The Executive Director, the Director, Office of Personnel Programs, and the Agency Counselor shall be responsible for keeping all FPC Forms listed in paragraph (a) of this section strictly confidential and shall not grant access to, or permit disclosure of information from, these forms except to carry out the purpose of these regulations. Information contained thereon will not be disclosed except in accordance with the regulations of the Civil Service Commission or on a determination of good cause made by the Chairman of the Federal Power Commission or except as provided by law.

(f) *Interests of employee's relatives.* The interest of a spouse, minor child, or other member of an employee's immediate household (as defined in § 3.204(d)) is considered to be an interest of the employee.

(g) *Effect of submission of forms on other requirements.* Submission of any FPC forms listed in paragraph (a) of this section is in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. An employee's submission of any of these forms does not permit him or any other person to participate in a matter which his or the other person's participation is prohibited by law, order, or regulation.

(h) *Information not required.* An employee is not required to supply information relating to his connection with, except employment required to be reported under § 3c.5(e) or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included. Information showing the value of securities, other financial interests, and real property and the amount of indebtedness is also not required.

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[3] Forms available from the Director, Office of Personnel Programs.

(i) *Provisions relating only to FPC Form 498; information not known by employees.* If any information required to be included on FPC Form 498, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf. In the event that an employee's holdings are held in a previously approved blind trust, the employee should report on his filed Form 498, "Unknown securities held in blind trust."

§ 3c.8 Interpretation and advisory service.

(a) An interpretation and advisory service consisting of an Agency Counselor is established to provide counsel and advice to all Commission employees regarding the interpretation and applicability of the provisions and subject matter of this Subpart C.

(b) *Agency Counselor.* (1) *Designation.* The General Counsel of the Federal Power Commission is designated as the Agency Counselor.

(2) *Duties.* The Agency Counselor shall:

(i) Serve as the Commission's designee to the Civil Service Commission regarding the matters covered by this Subpart C.

(ii) Coordinate and direct the Commission's interpretation and advisory service.

(iii) Issue interpretations and advisory opinions as required concerning matters covered by this Subpart A.

(iv) Transmit to the persons specified in § 3c.9(e) with a written statement of his views and recommendations, all conflicts of interest reports prepared by the Director, Office of Personnel Programs in accordance with the provisions of § 3c.9(e) and notify the employee of the transmittal.

(v) In accordance with the provisions of § 3c.7(e) relating to confidentiality, exercise responsibility, together with the Executive Director and the Director, Office of Personnel Programs for keeping all FPC forms listed in paragraph (a) of § 3c.7 strictly confidential.

(vi) Duty of employee to consult. Any employee who is uncertain as to the application of any provision of this Subpart A or is uncertain as to whether any contemplated action is permissible or who believes any provision will cause him undue hardship should submit his question, view, or request to the Agency Counselor.

§ 3c.9 Procedure for reviewing statements of employment and financial interests and reporting conflicts of interest.

(a) Except as provided in § 3c.7(b), the Director, Office of Personnel Programs shall review all statements of employment and financial interests (FPC Forms 709 and 498) submitted by employees pursuant to this Subpart C to determine whether there are any actual or apparent conflicts of interest.

(b) The Director, Office of Personnel Programs shall receive and investigate complaints and information from all sources, including other Federal agencies, concerning the conduct of employees.

(c) Bureau and office heads shall report any misconduct or violation of this Subpart A by employees under their supervision and direction to the Director, Office of Personnel Programs.

(d) When the Director, Office of Personnel Programs believes, on the basis of information submitted in statements of employment and financial interests, and from other sources, that an actual or apparent conflict of interest exists, he shall immediately:

(1) Notify the Agency Counselor and the Executive Director.

(2) Inform the employee concerned and provide him with full opportunity to explain the actual or apparent conflict to the Director, Office of Personnel Programs or the Agency Counselor.

(3) Endeavor to resolve the conflict in accordance with the standards and requirements of this Subpart A.

(4) Conflicts of interest relating to intervenors. (i) Where the actual or apparent conflicts of interest arises out of an employee's ownership of securities or personal interest in a person intervening in a matter before the Commission on which the employee has been assigned to work (see § 3c.5(b)(3)(iv)(B), the Director, Office of Personnel Programs shall immediately consult with the employee's Bureau Chief or other office head to determine whether it is in the interest of the Commission that the employee continue the assignment. In making this determination the Director, Office of Personnel Programs shall consider the general desirability of avoiding situations that will require resolution of conflict of interest problems, the extent to which the employee's activities will be supervised and all other factors bearing on the particular situation which may be presented.

(ii) Where the employee is permitted to continue his assignment, the Director Office of Personnel Programs shall prepare a written report describing the nature of the employee's interest and all other factors taken into account in resolving the potential conflict and shall provide the employee, the Agency Counselor and the Executive Director with a copy.

(e)(1) When actual or apparent conflicts of interest are not resolved by the Director, Office of Personnel Programs, he shall report, through the Agency Counselor, all information concerning the matter to:

(i) In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, to that Commissioner; or

(ii) In all other cases, to the Chairman and/or the Executive Director.

In each case, the Director, Office of Personnel Programs shall notify the employee that such a report has been made.

(2) The employee, at his own requests, shall be given an opportunity to explain the actual or apparent conflict to the Chairman and/or the Executive Director, or in the case of employees in the immediate offices of Commissioners other than the Chairman to a Commissioner and/or the Commission.

§ 3c.10 Disciplinary and other remedial action.

(a) *Disciplinary action.* Violation of the provisions of this Subpart A by any Commission employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law. Appropriate disciplinary action shall be effected in accordance with applicable laws, executive orders and regulations and may include one or more of the following: Removal, suspension, reduction in grade. The disciplinary action taken will depend upon the seriousness of the violation and pertinent conditions and circumstances. In instances where criminal violation is indicated, the matter will be referred by the Commission to the Department of Justice for appropriate action.

(b) *Other remedial action.* Other remedial action shall be effected in accordance with applicable laws, executive orders and regulations and may include:

(1) Divestment of the employee of his conflicting interest.

(2) Changes in assigned duties.

(3) Disqualification for a particular assignment.

(c) *Procedure.* (1) Except as provided in paragraph(c)(2) of this section after receipt from the Agency Counselor of the conflicts of interest report prepared by the Director, Office of Personnel Programs in accordance with the provisions of §§ 3c.8(b)(2)(iv) and 3c.9(e)(1) and after consideration of the explanation provided by the employee, the Chairman shall take such appropriate disciplinary or other remedial action as may be required. If the Chairman concludes that there is no actual or apparent conflict of interest or if no disciplinary or other remedial action is required, the Chairman shall so inform the employee.

(2) In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, that Commissioner shall execute the provisions

of paragraph (c)(1) of this paragraph. Any Commissioner may, in his discretion, refer the matter to another Commissioner or to the Commission for resolution.

§ 3c.11 Miscellaneous statutes and regulations.

Each employee shall acquaint himself with the following statutes and regulations relating to ethical conduct. The full texts of these statutes and regulations are available in the Offices of the Agency Counselor and Director, Office of Personnel Programs.

(a) *General.* (1) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service," and Federal Power Commission Administrative Order No. 66, July 23, 1958, setting forth canons of conduct based on H. Con. Res. 175.

(2) Executive Order 11222, May 8, 1965, 30 FR 6469, as amended by Executive Order 11590, April 23, 1971, 36 FR 7831, Prescribing Standards of Ethical Conduct for Government Officers and Employees and the implementing regulations issued by the Civil Service Commission, 30 FR 12529, 5 CFR Part 735.

(3) Violation of any law, rule, or regulation, administered by the Civil Service Commission, or failure to adhere to established policies, regulations, standards, and instructions on personnel management subject to the jurisdiction of the Commission. (Civil Service rule 5.4, 5 CFR 5.4)

(4) Refusal to furnish testimony or information to authorized representatives of the Civil Service Commission in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. [Civil Service Regulations 731.201(d), 5 CFR 731.201(d)]

(5) Executive Order 10927, March 18, 1961, 26 FR 2383, abolishing the President's Committee on Fundraising within the Federal Service and providing for the conduct of fundraising activities.

(6) The prohibitions relating to gifts to superiors. (5 U.S.C. 7351)

(b) *Personal conduct.* (1) The provision relating to the habitual use of intoxicants to excess. (5 U.S.C. 7352)

(2) The prohibition against criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct. [Civil Service Regulation 731.201(b), 5 CFR 731.201(b)]

(c) *Disloyalty and striking.* (1) The prohibitions against disloyalty and striking. (5 U.S.C. 7311, 18 U.S.C. 1918) (See Note below.)

(2) The prohibition against the employment of a member of a Communist organization. (50 U.S.C. 784) (See Note below.)

NOTE: An employee who advocates the overthrow of our constitutional form of government, or is a member of an organization knowing it so advocates, shall be dismissed. Strikes against the government are forbidden as well as membership in government employee organizations which assert the right to strike against any Federal department or agency.

(d) *Foreign governments.* (1) The prohibition against accepting a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Pub. L. 89-673, 80 Stat. 952.

(2) The prohibition against serving while on annual leave or leave without pay, with or without remuneration, for any foreign government, corporation, partnership or individual that is in competition with American industry. (Executive Order 5221, November 11, 1929, 18 CFR 3.735-11)

(3) The prohibition against an employee acting as the agency of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219)

(e) *Political activities.* (1) The prohibitions against political activities (the former Hatch Act) in subchapter III of chapter 73 of title 5, U.S.C. and 18 U.S.C. 602, 603, 607, and 608. The prohibitions, and exemptions therefrom, with respect to government employees holding state, territorial or municipal offices. (Civil Service Regulations, 5 CFR Part 733)

(2) The prohibition against lobbying with appropriated funds. (18 U.S.C. 1913.) No part of the money appropriated by any enactment of Congress shall, in absence of express authorization by Congress, be used directly or indirectly to pay for any personal serv-

ice, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. The penalty for violation includes fine or imprisonment and removal.

(f) *Disclosure of information.* (1) Section 301(b) (16 U.S.C. 825b) of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act forbid employees, in the absence of Commission or court direction from divulging information gained in examining books or accounts.

(2) Part 388 of this chapter outlines what is public information and what is not.

(3) Section 388.2201 of this chapter describes the prohibitions against ex parte communications.

(4) Federal Power Commission Administrative Order 56, July 11, 1956, describes standards of conduct relating to "Official Staff Contracts Outside the Commission."

(5) The prohibitions against (i) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information. (18 U.S.C. 1905)

(g) *Bribery, graft, and conflicts of interest.* (1) Chapter 11 of Title 18, United States Code especially:

Sec. 201 Bribery of public officials and witnesses.
Sec. 202 Definitions.
Sec. 203 and 209 Outside compensation in matters affecting the government.
Sec. 205 Activities in claims against and other matters affecting the government.
Sec. 207 Disqualification of former officers and employees in matters connected with former duties.
Sec. 208 Acts affecting personal financial interests.
Sec. 210 Offer to procure appointive public office.
Sec. 211 Acceptance or solicitation to obtain appointive public office.

(2) Section 385.2103 of this chapter states the restrictions against appearance by former employees.

(h) *Fraud and deceit, embezzlement, extortion.* (1) The prohibition against the use of deceit in an examination or personnel action in connection with government employment (18 U.S.C. 1917). The prohibition against intentional false statements or deception or fraud in examination for appointment [Civil Service Regulation 731.201(c) 5 CFR 731.201(c)]. The prohibition against influencing another to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. (Civil Service Rule 4.3, 5 CFR 4.3)

(2) The prohibition against fraud or false statements in a government matter. (18 U.S.C. 1001)

(3) The prohibition against counterfeiting and forging transportation requests. (18 U.S.C. 508)

(4) The prohibitions against:

(i) Embezzlement of government money or property (18 U.S.C. 641);

(ii) Failing to account for public money (18 U.S.C. 643); and

(iii) Embezzlement of the money or property of another person in the possession of an employee by reason of his employment. (18 U.S.C. 654)

(5) The prohibition against extortion. (18 U.S.C. 872)

(i) *Misuse of government property.* (1) The prohibition against the misuse of a government vehicle. (31 U.S.C. 638a(c))

(2) The prohibition against the misuse of the franking privilege. (18 U.S.C. 1719)

(3) The prohibition against mutilating or destroying a public record. (18 U.S.C. 2071)

(4) The prohibition against unauthorized use of documents relating to claims from or by the government. (18 U.S.C. 285)

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

Subpart B—Standards of Conduct for Special Government Employees

§ 3c.101 Purpose.

(a) The Commission recognizes that the maintenance of high standards of honesty, integrity, impartiality, and conduct by special Government employees is essential to assure the proper performance of Commission business and the maintenance of confidence by citizens in the integrity of their government. The avoidance of misconduct and conflicts of interest on the part of special Government employees through informed judgment is indispensable to the maintenance of these standards. The Commission, acting under authority conferred by the Federal Power Act and pursuant to sections 201(b) and 702 of the Executive Order 11222 of May 8, 1965, 30 FR 6469, as amended by Executive Order 11590 of April 22, 1971, 36 FR 7831, and the implementing regulations issued by the Civil Service Commission, 30 FR 12529, 5 CFR Part 735, issues this Subpart B to advise all special Government employees of the standards of conduct each is expected to observe while employed by the Federal Power Commission.

(b) The summaries of statutory provisions, such as the conflict of interest provisions of Title 18 U.S.C. 201-218, which appear in this Subpart B at § 3c.111 are not intended and should not be construed as verbatim quotations of the law. The statutes should be consulted in any situation in which they might apply.

§ 3c.102 Coverage.

This Subpart D applies only to special Government employees, usually consultants and advisors, as defined in § 3c.104(h).

§ 3c.103 Notice and receipt.

Each special Government employee in the employ of the Commission shall be provided with a copy of this Subpart B and shall, within 5 days after receipt, sign and return to the Director, Office of Personnel Programs, the certification of receipt and agreement to comply with conditions and requirements (FPC Form 855). At the time his appointment is processed, each new special Government employee shall be provided with a copy of this Subpart B and shall sign and return to the Director, Office of Personnel Programs, the certification of receipt and agreement to comply with conditions and requirements. Special Government employees shall be advised of this Subpart B at least once each year and shall be promptly informed of any change therein.

§ 3c.104 Definitions.

(a) "Conflicts of interest" means a situation in which a special Government employee's private interest, usually of an economic nature, conflicts or raises a reasonable question of potential conflict with the efficient and impartial conduct of his official duties and responsibilities. The conflict is of concern whether it is real or only apparent.

(b) "Employed" means the period of time for which a special Government employee is appointed by the Federal Power Commission and/or other Federal agencies to render services, including those days on which no services are rendered.

(c) "Executive order" means Executive Order 11222 of May 8, 1965 (30 FR 6469), as amended by Executive Order 11590 of April 22, 1971 (36 FR 7831).

(d) "Member of the special Government employee's immediate household" means blood relations of the special Government employee who are permanent residents of the special Government employee's household.

(e) "Official responsibility" means "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action." [18 U.S.C. 202(b)]

(f) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other group, organization or institution.

(g) "Serve" means to render services, whether with or without compensation.

(h) "Special Government employee" means a special Government employee, as defined in section 202(a) of Title 18 of the United States Code, who is employed by the Commission:

> The term "special Government employee" shall mean an officer or employee of . . . any independent agency of the United States . . . who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. . . . [18 U.S.C. 202(a)]

§ 3c.105 Classification of special Government employees.

(a) *FPC Service.* Classification as a special Government employee shall be made on the basis of an estimate of the number of days the Commission will require the services of the employee during the 365 days following his appointment which shall not extend for more than 365 days. Only employees whose service is estimated at 130 days or less shall be classified as special Government employees. Despite inaccuracies, employees shall retain, throughout each 365-day period, the classification assigned on the basis of the estimate for that period. A part of a day shall be counted as a full day and a Saturday, Sunday, or holiday on which duty is to be performed shall be counted equally with a regular workday.

(b) *Multiagency service.* A special Government employee who undertakes to serve one or more other Federal departments or agencies shall inform the Federal Power Commission of his arrangement with the others. The Director, Office of Personnel Programs, Federal Power Commission, shall coordinate the classification of special Government employees with the designated coordinator in the other agencies. If the employee's appointments with two or more agencies are made on the same date, the aggregate of the service estimates made by each agency shall be considered determinative of his classification by each. If after being employed by one agency, a special Government employee is appointed to serve in the same capacity by one or more other agencies, each agency shall make an estimate of the amount of the employee's service to it for the remaining portion of the 365-day period covered by the original estimate of the first agency. The sum of these estimates and of the actual number of days of the employee's service to the first agency during the prior portion of such 365-day period shall be considered determinative of the employee's classification by each agency during the remaining portion.

§ 3c.106 Conflicts of interest.

(a) *Use of Commission employment.* A special Government employee shall not use his Commission employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business or financial ties.

(b) *Coercion.* A special Government employee shall not use his Commission employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business or financial ties.

(c) *Outside compensation in matters affecting the government.* Special Government employees are prohibited from accepting any compensation, except as provided by law for the proper discharge of official duties, for any services rendered in relation to a particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the special Government employee participated personally and substantially in the course of his Commission duties. Special Government employees who have served the Commission for more than 60 days during the immediately preceeding period of 365 consecutive days are also subject to a similar prohibition with respect to matters pending before the Commission during their period of service, even though they have not participated personally and substantially in those matters (18 U.S.C. 203).

(d) *Financial interests.* (1) A special Government employee shall not:

(i) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Commission duties and responsibilities.

(ii) Engage, directly or indirectly, in a financial transaction as a result of, or primarily relying on, information obtained through his Commission employment.

(2) These financial interests also include interests of the special Government employee's spouse, minor child or member of his immediate household.

(3) A special Government employee is prohibited, under penalty of fine or imprisonment, from participating personally and substantially as a government officer or special Government employee in any matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or person with whom he is negotiating for employment has a financial interest. However, this prohibition does not apply if, prior to such participation, and upon complete disclosure of the financial interest, the Chairman[1] of the Commission determines that the special Government employee's interest is not so substantial as to affect the special Government employee's services to the Commission. (18 U.S.C. 208)

(4)(i) A special Government employee or the spouse, minor child, or member of the immediate household of a special Government employee shall not own, directly or indirectly, or participate in the purchase of any securities of any public utility, licensee, or natural gas company subject to the jurisdiction of the Commission. This prohibition shall also apply to securities of parent companies having jurisdictional subsidiaries or subsidiaries of jurisdictional parent companies. The prohibition shall not apply to investments in mutual funds or private investment groups where a special Government employee or the spouse, minor child, or member of the immediate household of a special Government employee does not have the right to participate in or control management decisions relating to what securities will be held in the funds. The prohibition shall not apply to investments in mutual savings banks.

(ii) All special Government employees shall report such securities and security acquisitions on appropriate forms in the manner and at the time specified in § 3c.108 (a), (b), and (c).

(iii) Such securities, regardless of the manner of acquisition, shall be disposed of promptly upon request by the Director, Office of Personnel Programs. Disposition of securities shall include sale of the securities or transfer of title of the securities into a "blind trust" which denies control and knowledge to the grantor of the securities held in trust. Should a special Government employee decide to dispose of securities through a blind trust agreement, it must first be approved by the Director, Office of Personnel Programs, upon review and advice of the General Counsel.

(iv) All special Government employees shall submit reports on appropriate forms in the manner and at the time specified in § 3c.108 (a), (b), and (c) regarding:

(A) Any securities presently held directly or indirectly by a special Government employee or his spouse, minor child or member of his immediate household, in an enterprise whose status under the Federal Power Act or Natural Gas Act comes before the Commission for determination.

(B) Any securities owned by or personal interest of a special Government employee or his spouse, minor child, or member of his immediate household in any person, firm, association, or corporation intervening on a matter before the Commission to which the special Government employee has been assigned to work.

(e) *Gifts, entertainment, loans and favors.* (1) Unless permitted by paragraph (e)(2) of this section, a special Government employee, while so employed or in connection with his employment, shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, for himself or another person, particularly one with whom he has family, business, or financial ties, from any person who:

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[1] As the Government official responsible for appointment of the special Government employee to his position. In the case of Commissioners, this determination is made by the President as the appointing official. In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, the determination is made by that Commissioner.

(i) Has, or is seeking to obtain, approval or denial by the Commission of actions required under statute, or the Commission's rules and regulations; or

(ii) Conducts operations or activities which are regulated by the Commission or concerning which determinations of status are pending before the Commission; or

(iii) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission; or

(iv) Has interests which may be substantially affected by the performance or nonperformance of the special Government employee's official duty; or

(v) Is in any way attempting to influence the special Government employee's official actions.

(2) The requirements of paragraph (e)(1) of this section do not apply to:

(i) Obvious family or personal relationships where circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children, or spouses of employees;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner, or other meeting or on an inspection tour where a special Government employee may properly be in attendance. Special Government employees on an inspection tour may also accept necessary arrangements for travel and lodging when no other reasonable alternatives are available.

(iii) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the special Government employee, such as for example, home mortgage loans.

(iv) Acceptance of unsolicited advertising or promotional material of nominal intrinsic value, such as pens, pencils, note pads, calendars, and other similar items.

(v) A special Government employee, while so employed, or in connection with his employment, shall not:

(A) Solicit contributions from another employee for a gift to an employee in a superior official position.

(B) Make a donation as a gift to an employee in a superior official position.

(C) Accept a gift presented as a contribution from employees receiving less salary than himself.

(D) The prohibitions of paragraphs (e)(2)(v) (A), (B), and (C) of this section are not intended to prohibit voluntary gifts or donations of nominal value made to a special Government employee on a special occasion such as marriage, illness, resignation, or retirement.

(3) A special Government employee shall not accept a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the U.S. Constitution and in Pub. L. 89-673, 80 Stat. 952.

(f) *Representation of others.* (1) During Commission employment. A special Government employee is prohibited, except as permitted in the proper discharge of his official duties or by express statutory exemption, from acting as agent or attorney, with or without compensation, in a particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the special Government employee participated personally and substantially. Special Government employees who have served the Commission for more than 60 days during the immediately preceding period of 365 days are also subject to a similar prohibition with respect to particular matters pending before the Commission during their period of service even though they have not participated personally and substantially in such matters. These prohibitions are limited by the following exemptions:

(i) A special Government employee may act as agent or attorney for another person in the performance of work under grant by or contract with the United States if the head of the department or agency concerned with the grant or contract first makes a written certification, submitted for publication in the FEDERAL REGISTER, that such representation is required in the national interest.

(ii) When not inconsistent with faithful performance of duty, special Government employees may also represent any person, without compensation, in disciplinary, loyalty, or other personnel matters.

(iii) Subject to the express written approval of the Chairman of the Commission,[2] a special Government employee may, with or without compensation, represent a parent, spouse, child, or person or estate he serves as fiduciary on matters in which the United States is a party or has an interest except matters in which he has participated personally and substantially, as a special Government employee or which are the subject of his official responsibility.

(iv) A special Government employee may also give testimony under oath or make statements required to be made under penalty for perjury or contempt. (18 U.S.C. 203 and 205)

(2) Following termination of Commission employment. (i) A special Government employee shall not, after his employment has ceased,[3] knowingly act as agent or attorney for anyone other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the special Government employee participated personally and substantially during his Commission employment [18 U.S.C. 207(a)]

(ii) A special Government employee shall not, within 1 year after his Commission employment has ceased, appear personally before any court or Government agency as agent or attorney for anyone other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was under his official responsibility as a special Government employee at any time within 1 year prior to the termination of such responsibility [18 U.S.C. 207(b)]

(iii) Section 385.2103 of this chapter prohibits a former special Government employee from acting as attorney, expert witness or representative in connection with any proceeding before the Commission in which the special Government employee participated during his service with the Commission unless such appearance is expressly authorized by the Commission upon a verified showing that it would not be contrary to the public interest and unethical or prejudicial to the interests of the Commission, or in violation of 2(a) and 2(b), supra.

(g) Special Government employees shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or of the Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of Commission employment, except when that information has been made available to the general public or will be made available on request or when the Executive Director has given written authorization for the use of nonpublic information on the basis that the use is in the public interest. For additional requirements and procedures relating to the misuse and disclosure of information, see § 3c.111(f).

(h) Special Government employees shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission.

(i) A special Government employee may not receive nongovernment reimbursement for travel or expenditures on official business.

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[2] As the Government official responsible for appointment of the special Government employee to his position.

[3] For the purposes of 18 U.S.C. 207, the employment of a special Government employee ceases on the day his appointment expires or is otherwise terminated, as distinguished from the date on which he last performs service.

(j) *Limitations on prohibitions of paragraphs (d), (e) and (f) of this section.* The prohibitions of paragraphs (d), (e) and (f) of this section do not preclude a special Government employee from:

(1) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational public service, or civic organization.

(2) Participation in the activities of national or state political parties not proscribed by law. But see § 3c.111(f) for reference to the prohibitions against political activity.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.107 Ethical conduct.

(a) *Use of government property.* A special Government employee shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for other than officially approved activities. A special Government employee has a positive duty to protect and conserve government property, including equipment, supplies, and other property entrusted or issued to him.

(b) *Misuse of information.* (1) A special Government employee shall not use inside information obtained as a result of his Commission employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. "Inside information" means information obtained under Commission authority which has not become part of the body of public information.

(2) Section 388.107 of this chapter sets up the procedures for making available to the public, information in the public files and records of the Commission and specifies the particular files and records which are not generally available to the public. Section 388.107 of this chapter including special Government employees, when served with a subpoena duces tecum and outlines the procedures to be followed when the material sought is not part of the public files and records of the Commission.

(3) Section 301(b) [16 U.S.C. 825(c)] of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act prohibit any employee, including a special Government employee, in the absence of Commission or court direction, from divulging any fact or information which may come to his knowledge during the course of examination of books or other accounts.

(4) The nature and time of any proposed action by the Commission are confidential and shall not be divulged to anyone outside the Commission. The Secretary of the Commission has exclusive responsibility and authority for authorizing the initial public releases of information concerning Commission actions or decisions.

(5) Section 385.2201 of this chapter states the prohibitions against *ex parte* communications in on-the-record proceedings to Commissioners, members of their personal staffs, administrative law judges or other employees, including special Government employees, participating in the decision in such proceedings.

(c) *Indebtedness.* Special Government employees shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. "A just financial obligation" means one acknowledged by the special Government employee or reduced to judgment by a court, or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the government as his employer. In the event of dispute between a special Government employee and an alleged creditor, the Commission shall not be required to determine the validity or amount of the disputed debt. Each special Government employee should arrange his personal financial affairs to avoid any request to the Commission for administrative action to assist in the collection of debts.

(d) *Gambling, betting and lotteries.* A special Government employee shall not participate, while on government-owned or leased property or while on duty for the government, in any gambling activities, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. This paragraph does not preclude fundraising activities by employee organizations under section 3 of Executive Order 10927, March 18, 1961, 26 FR 2383.

(e) *General conduct.* Special Government employees shall conduct themselves in such manner that the work of the Commission is effectively accomplished and shall also observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

(f) Special Government employees shall avoid any action, whether or not specifically prohibited by §§ 3c.106 and 3c.107, which might result in or create the appearance of:

(1) Using public office for private gain; or

(2) Giving preferential treatment to any person; or

(3) Losing complete independence or impartiality of action; or

(4) Making a government decision outside official channels; or

(5) Impeding government efficiency or economy; or

(6) Affecting adversely the confidence of the public in the integrity of the government and the Federal Power Commission.

(g) Special Government employees shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government and to the Commission.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.108 Statements of employment and financial interests.

(a) *Forms.* A copy of each of the following forms is appended to this Subpart B.[4]

(1) FPC Form 498—Confidential Statement of Employment and Financial Interests.

(2) FPC Form 855—Certification of receipt and agreement for special Government employees.

(b) *Special Government employees required to submit; time of submission.* (1) FPC Form 498 Confidential Statement of Employment and Financial Interest. All special Government employees shall submit FPC Form 498:

(2) At the time of entrance on duty.

(3) Within 30 days of the date of acquisition by the special Government employee, his spouse, minor child, or member of the special Government employee's immediate household of any security.

(4) On June 30 of each year for the purpose of annual review. Where there are no changes in or additions to the original information submitted, a negative report shall be filed.

(5) Notwithstanding the filing of the annual report required by this section, each special Government employee shall at all times avoid acquiring a financial interest that could result, or taking an action that could result, in a violation of the conflicts of interest provisions of § 3c.106.

(6) FPC Form 855—Certification of receipt and agreement for special Government employees. All special Government employees in the employ of the Commission shall complete this form within 5 days after receipt of this Subpart B.

(c) *Place of submission.* All FPC Forms listed in paragraph (a) of this section shall be submitted to the Director, Office of Personnel Programs, in an envelope marked "Personal Attention: Director, Office of Personnel Programs.

(d) *Confidentiality.* The Executive Director, the Director, Office of Personnel Programs, and the Agency Counselor shall be responsible for keeping all FPC Forms listed in paragraph (a) of this section strictly confidential and shall not grant access to, or permit disclosure of information from, these forms except to carry out the purpose of these regulations. Information contained thereon will not be disclosed except in accordance with the regulations of the Civil Service Commission or on a determination of good cause made by the Chairman of the Federal Power Commission, or except as provided by law.

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[4] Forms available from Director, Office of Personnel Programs.

(e) *Interests of special Government employee's relatives.* The interest of a spouse, minor child, or other member of a special Government employee's immediate household (as defined in § 3c.104(d)) is considered to be an interest of the special Government employee.

(f) *Effect of submission of forms on other requirements.* Submission of any FPC forms listed in paragraph (a) of this section is in addition to, and not in substitution for, or in derogation of, any other person to participate in a law, order, or regulation. A special Government employee's submission of any of these forms does not permit him or any other person to participate in a matter which his or the other person's participation is prohibited by law, order or regulation.

(g) *Information not required.* A special Government employee is not required to supply information relating to his connection with, except employment required to be reported under § 3c.105(b) or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the government are deemed "business enterprises" and are required to be included. Information showing the value of securities, other financial interests, and real property and the amount of indebtedness is also not required.

(h) *Provisions relating only to FPC Form 498; information not known by special Government employees.* If any information required to be included on FPC Form 498, including holdings placed in trust, is not known to the special Government employee but is known to another person, the special Government employee shall request that other person to submit the information in his behalf. In the event that a special Government employee's holdings are held in a previously approved blind trust, the special Government employee should report on his filed Form 498 "Unknown securities held in blind trust."

§ 3c.109 Interpretation and advisory service.[5]

(a) *Availability.* The interpretation and advisory service established under § 3c.8 is available to all special Government employees seeking counsel and advice regarding the interpretation and applicability of the provisions and subject matter of this Subpart B.

(b) *Duty of special Government employee to consult.* Any special Government employee, who is uncertain as to the application of any provision of this Subpart B or is uncertain as to whether any contemplated action is permissible, or who believes any provision will cause him undue hardship, should submit his question, view or request to the Agency Counselor, either orally or in writing. The Agency Counselor shall inform the special Government employee of his views, recommendations, and reasons therefor, either orally or in writing when requested by the special Government employee or when the Agency Counselor, in his discretion, considers a written reply advisable. The Agency Counselor shall also send a memorandum or a copy of his written reply to the Director of the Office of Personnel Programs for consideration and appropriate determination and action.

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[5] See Subpart C, "Interpretation and Advisory Service."

§ 3c.110 Procedure for reviewing statements of employment and financial interests and reporting conflicts of interest.

(a) The Director, Office of Personnel Programs, shall review all statements of employment and financial interests (FPC Forms 709 and 498) submitted by special Government employees pursuant to this Subpart B to determine whether there are any actual or apparent conflicts of interests.

(b) The Director, Office of Personnel Programs, shall receive and investigate complaints and information from all sources, including other Federal agencies, concerning the conduct of special Government employees.

(c) Bureau and office heads shall report any misconduct or violation of this Subpart B by special Government employees under their supervision and direction to the Director, Office of Personnel Programs.

(d) When the Director, Office of Personnel Programs, believes, on the basis of information submitted in statements of employment and financial interests, and from other sources, that an actual or apparent conflict of interest exists, he shall immediately:

(1) Notify the Agency Counselor and the Executive Director.

(2) Inform the special Government employee concerned and provide him with full opportunity to explain the actual or apparent conflict to the Director, Office of Personnel Programs, or the Agency Counselor.

(3) Endeavor to resolve the conflict in accordance with the standards and requirements of this Subpart B.

(e) Conflicts of interest relating to intervenors. (1) Where the actual or apparent conflicts of interest arises out of a special Government employee's ownership of securities or personal interest in a person intervening in a matter before the Commission on which the special Government employee has been assigned to work, the Director, Office of Personnel Programs, shall immediately consult with the special Government employee's Bureau Chief or other office head to determine whether it is in the interest of the Commission that the special Government employee continue the assignment. In making this determination, the Director, Office of Personnel Programs, shall consider the general desirability of avoiding situations that will require resolution of conflict of interest problems, the extent to which the special Government employee's activities will be supervised and all other factors bearing on the particular situation which may be presented.

(2) Where the special Government employee is permitted to continue his assignment, the Director, Office of Personnel Programs, shall prepare a written report describing the nature of the special Government employee's interest and all other factors taken into account in resolving the potential conflict and shall provide the special Government employee, the Agency Counselor, and the Executive Director with a copy.

(f)(1) When actual or apparent conflicts of interest are not resolved by the Director, Office of Personnel Programs, he shall report, through the Agency Counselor, all information concerning the matter to:

(2) In the case of personnel employed regularly and full time in the immediate office of a Commissioner other than the Chairman, to that Commissioner; or

(3) In all other cases, to the Chairman and/or the Executive Director.

In each case, the Director, Office of Personnel Programs shall notify the special Government employee that such a report has been made.

(4) The special Government employee, at his own request, shall be given an opportunity to explain the actual or apparent conflict to the Chairman and/or the Executive Director, or in the case of special Government employees in the immediate offices of Commissioners other than the Chairman to a Commissioner and/or the Commission.

§ 3c.111 Disciplinary and other remedial action.

(a) *Disciplinary action.* Violation of the provisions of this Subpart D by any special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law. Appropriate disciplinary action shall be effected in accordance with applicable laws, executive orders, and regulations and may include one or more of the following: Removal, suspension, reduction in grade. The disciplinary action taken will depend upon the seriousness of the violation and pertinent conditions and circumstances. In instances where criminal violation is indicated, the matter will be referred by the Commission to the Department of Justice for appropriate action.

(b) *Other remedial action.* Other remedial action shall be effected in accordance with the applicable laws, executive orders, and regulations and may include:

(1) Divestment by the special Government employee of his conflicting interest.

(2) Changes in assigned duties.

(3) Disqualification for a particular assignment.

(c) *Procedure.* (1) Except as provided in paragraph (c)(2) of this section, after receipt from the Agency Counselor of the conflicts of interest report prepared by the Director, Office of Personnel Programs, in accordance with the provisions of §§ 3.208(B)(2)(d) and 3.230(D), and after consideration of the explanation provided by the special Government employee, the Chairman shall take such appropriate disciplinary or other remedial action as may be required. If the Chairman concludes that there is no actual or apparent conflict of interest or if no disciplinary or other remedial action is required, the Chairman shall so inform the special Government employee.

(2) In the case of personnel employed in the immediate office of a Commissioner other than the Chairman, that Commissioner shall execute the provisions of paragraph (c)(1) of this section. Any Commissioner may, in his discretion, refer the matter to another Commissioner or to the Commission for resolution.

[Order No. 564, 42 FR 20459, Apr. 20, 1977]

§ 3c.112 Miscellaneous statutes and regulations.

Each special Government employee shall acquaint himself with the following statutes and regulations relating to ethical conduct. The full texts of these statutes and regulations are available in the offices of the Agency Counselor, and Director, Office of Personnel Programs.

(a) *General.* (1) House Concurrent Resolution 175, 85th Congress, 2nd Session, 72 Stat. B12, the "Code of Ethics for Government Service," and Federal Power Commission Administrative Order No. 66, July 23, 1958, setting forth canons of conduct based on H. Con. Res. 175.

(2) Executive Order 11222, May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees, 30 FR 6469, as amended by Executive Order 11590 of April 23, 1971, 36 FR 7831, and the implementing regulations issued by the Civil Service Commission, 30 FR 12529, 5 CFR Part 735.

(3) Violation of any law, rule, or regulation, administered by the Civil Service Commission, or failure to adhere to established policies, regulations, standards, and instructions on personnel management subject to the jurisdiction of the Commission. (Civil Service Rule 5.4, 5 CFR 5.4)

(4) Refusal to furnish testimony or information to authorized representatives of the Civil Service Commission in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. (Civil Service Regulations 731.201(d), 5 CFR 731.201(d))

(5) Executive Order 10927, March 18, 1961, 26 FR 2383, Abolishing the President's Committee on Fundraising within the Federal Service and providing for the conduct of fundraising activities.

(6) The prohibitions relating to gifts to superiors. (5 U.S.C. 7351)

(b) *Personal conduct.* (1) The provision relating to the habitual use of intoxicants to excess. (5 U.S.C. 7352)

(2) The prohibition against criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct. (Civil Service Regulations 731.201(d), 5 CFR 731.201(d))

(c) *Disloyalty and striking.* (1) The prohibitions against disloyalty and striking. (5 U.S.C. 7311, 18 U.S.C. 1918)[1]

(2) The prohibition against the employment of a member of a Communist organization. (50 U.S.C. 784)[1]

(d) *Foreign Governments.* (1) The prohibition against accepting a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and Pub. L. 89-673, 80 Stat. 952.

(2) The prohibition against serving while on annual leave or leave without pay with or without remuneration, for any foreign government, corporation, partnership or individual that is in competition with American industry. (Executive Order 5221, November 11, 1929)

(3) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219)

(e) *Political activities.* (1) The prohibitions against political activities (the former Hatch Act) in subchapter III of chapter 73 of Title 5, U.S.C. and 18 U.S.C. 602, 603, 607, and 608. The prohibitions, and exemptions therefrom, with respect to Government employees holding state, territorial or municipal offices. (Civil Service Regulations, 5 CFR Part 733)

(2) The prohibition against lobbying with appropriated funds. (18 U.S.C. 1913)

> No part of the money appropriated by an enactment of Congress shall, in absence of express authorization by Congress, be used directly or indirectly, to pay for any personal services, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or special Government employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

The penalty for violation includes fine or imprisonment and removal.

(f) *Disclosure of information.* (1) Section 301(b) (16 U.S.C. 825b) of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act forbid employees, in the absence of Commission or court direction, from divulging information gained in examining books or accounts.

(2) Section 1.36 of the Federal Power Commission's Rules of Practice and Procedure (18 CFR 1.36) outlines what is public information and what is not.

(3) Section 1.4(d) of the Federal Power Commission's Rules of Practice and Procedure (18 CFR 1.4(d)) describes the prohibitions against ex parte communications.

(4) Federal Power Commission Administrative Order No. 56, July 11, 1956, describes standards of conduct relating to "Official Staff Contacts Outside the Commission."

(g) The prohibitions against:

(1) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and

(2) The disclosure of confidential information (18 U.S.C. 1905).

(h) *Bribery, graft, and conflicts of interest.* (1) Chapter 11 of Title 18, United States Code, especially:

201 Bribery of public officials and witnesses.
202 Definitions.
203 and 209 Outside compensation in matters affecting the government.
205 Activities in claims against and other matters affecting the government.
207 Disqualification of former officers and employees in matters connected with former duties.
208 Acts affecting personal financial interests.
210 Offer to procure appointive public office.
211 Acceptance or solicitation to obtain appointive public office.

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[1] An employee who advocates the overthrow of our constitutional form of government, or is a member of an organization knowing it so advocates, shall be dismissed. Strikes against the Government are forbidden as well as membership in government employee organizations which assert the right to strike against any Federal department or agency.

(2) Section 385.2103 of this chapter states the restrictions against appearances by former employees.

(i) *Fraud and deceit, embezzlement, extortion.* (1) The prohibitions against the use of deceit in an examination or personnel action in connection with the government employment (18 U.S.C. 1917). The prohibition against intentional false statements or deception or fraud in examination for appointment (Civil Service Regulation 731.201(c), 5 CFR 731.201(c)). The prohibition against influencing another to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. (Civil Service Rule 4.3, 5 CFR 4.3)

(2) The prohibition against fraud or false statements in a government matter. (18 U.S.C. 1001)

(3) The prohibition against counterfeiting and forging transportation requests. (18 U.S.C. 508)

(4) The prohibitions against (a) embezzlement of government money or property (18 U.S.C. 641); (b) failure to account for public money (18 U.S.C. 643); and (c) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(5) The prohibition against extortion. (18 U.S.C. 872)

(6) Misuse of government property.

(7) The prohibition against the misuse of a government vehicle. (31 U.S.C. 638a(c))

(8) The prohibition against the misuse of the franking privilege. (18 U.S.C. 1719)

(9) The prohibition against mutilating or destroying a public record. (18 U.S.C. 2071)

(10) The prohibition against unauthorized use of documents relating to claims from or by the government. (18 U.S.C. 285) (Order 319, 31 FR 4118, March 9, 1966, as amended by Order 353, 32 FR 15239, 15240, November 3, 1967)

[Order 564, 42 FR 20459, Apr. 20, 1977, as amended by Order 225, 47 FR 19055, May 3, 1982]

Subpart C—Standards of Conduct for Commissioners

§ 3c.201 Purpose.

(a) The Commission recognizes that the maintenance of high standards of honesty, integrity, impartiality, and conduct by Commissioners is essential to assure the proper performance of Commission business and the maintenance of confidence by citizens in the integrity of their government. The avoidance of misconduct and conflicts of interest on the part of Commissioners through informed judgment is indispensable to the maintenance of these standards. The Commission, acting under authority conferred by the Federal Power Act and pursuant to sections 201(b) and 702 of the Executive Order 11222 of May 8, 1965, 30 FR 6469 (3 CFR 1965, Supp., p. 130), as amended by Executive Order 11590 of April 22, 1971, 36 FR 7831, and the implementing regulations issued by Civil Service Commission, 30 FR 12529, 5 CFR Part 735, issues this Subpart C to advise the Commissioners to the standards of conduct each is expected to observe while as a member of the Federal Power Commission.

(b) The summaries of statutory provisions, such as the conflict of interest provisions of Title 18 U.S.C. 201-218, which appear in this Subpart C are not intended and should not be construed as verbatim quotations of the laws. The statutes should be consulted in any situation in which they might apply. Section 3c.206 contains a list of applicable statutes and regulations for ready reference.

§ 3c.202 Coverage.

This Subpart E applies to Commissioners whether on leave without pay, sick leave or annual leave.

§ 3c.203 Definitions.

(a) "Commissioner" means a member of the Federal Power Commission appointed pursuant to the provisions of section 1 of the Federal Power Act.

(b) "Executive order" means Executive Order 11222 of May 8, 1965 (30 FR 6469) as amended by Executive Order 11590 of April 22, 1971 (36 FR 7831).

(c) "Conflict of interest" means a situation in which a Commissioner's private interest conflicts with the Standards of Conduct set forth in the Executive order or the Standards set forth in this Subpart C.

§ 3c.204 Conflicts of interest.

(a) *Outside compensation in matters affecting the government.* (1) A Commissioner shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Commission. (18 U.S.C. 209)

(2) This prohibition does not prevent continued participation in bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus or other Commissioner welfare or benefit plans maintained by a former employer.

(3) A Commissioner is prohibited from accepting any compensation except as provided by law for the proper discharge of official duties for any services rendered in relation to a particular matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 203)

(b) *Financial interests:* (1) A Commissioner shall not hold any financial interest determined by the Chairman of the Civil Service Commission to be inconsistent with the Standards of the Executive order. Commissioners are required to submit financial statements in accordance with the provisions of section 401(a) of the Executive order.

(2) Commissioners are subject to the following prohibition of the Federal Power Act which is applied as a matter of Commission policy to like interests in natural gas companies, as defined in section 2 of the Natural Gas Act (15 U.S.C. 717a).

> * * * No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of Commissioner. Said Commissioners shall not engage in any other business, vocation, or employment. * * *

(16 U.S.C. 792)

(3) A Commissioner is prohibited, under penalty of fine or imprisonment, from participating personally and substantially as a government officer or employee in any manner in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or person with whom he is negotiating for employment, has a financial interest. However, this prohibition does not apply if, prior to such participation, and upon complete disclosure of the financial interest, the President of the United States determines that the Commissioner's interest is not so substantial as to affect the Commissioner's services to the Commission (18 U.S.C. 208).

(c) *Gifts, entertainment, loans and favors.* (1) Unless permitted paragraph (b)(2) of this section, no Commissioner shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person who:

(i) Has or is seeking to obtain, approval or denial by the Commission of actions required under statute, or the Commission's rules and regulations; or

(ii) Conducts operations or activities which are regulated by the Commission or concerning which determinations of status are pending before the Commission; or

(iii) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission; or

(iv) Has interests which may be substantially affected by the performance or nonperformance of the Commissioner's official duty; or

(v) Is in any way attempting to influence the Commissioner's official actions.

(2) The requirements of paragraph (c)(1) of this section do not apply to:

(i) Obvious family or personal relationships where circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children, or spouses of Commissioners.

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner or other meeting or on an inspection tour where a Commissioner may properly be in attendance. Commissioners on an inspection tour may also accept necessary arrangements for travel and lodging when no other reasonable alternatives are available.

(iii) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the Commissioner, such as, for example, home mortgage loans.

(iv) Acceptance of unsolicited advertising or promotional material of nominal intrinsic value such as pens, pencils, note pads, calendars and other similar items.

(v) A Commissioner shall not accept a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Pub. L. 89-673, 80 Stat. 952.

(d) *Representation of others.* (1) During Commission employment. A Commissioner is prohibited, except as permitted in the proper discharge of his official duties or by express statutory exemption, from acting with or without compensation as agent or attorney before a court or government agency in a matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 203 and 205) This prohibition does not prevent a Commissioner from:

(i) Representing any person without compensation in disciplinary, loyalty, or other personnel matters, when not inconsistent with faithful performance of duty;

(ii) Representing, with or without compensation, a parent, spouse, child, or person or estate he serves as fiduciary, on matters in which the United States is a party or has an interest except matters subject to the Commissioner's official responsibility or in which the Commissioner has participated personally and substantially, if the Commissioner has first obtained the express written approval of the President of the United States.

(iii) Giving the testimony under oath or making statements required to be under penalty for perjury and contempt. (18 U.S.C. 205)

(2) Following termination of Commission employment. (i) A Commissioner shall not, after his employment has ceased, knowingly act as agent or attorney for anyone other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the Commissioner at any time within one year substantially during his Commission employment. [18 U.S.C. 207(a)]

(ii) A Commissioner shall not, within one year after his Commission employment has ceased, appear personally before any court or government agency as agent or attorney for anyone other than the United States in any matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was under his official responsibility as a Commissioner at any time within one year prior to the termination of such responsibility [18 U.S.C. 207(b)].

(iii) Section 385.2103 of this chapter prohibits a former Commissioner from acting as attorney, expert witness, or representative in connection with any proceeding before the Commission in which the Commissioner participated during his service with the Commission unless such appearance is expressly authorized by the Commission upon a verified showing that it would not be contrary to the public interest and unethical or prejudicial to the interests of the Commission.

(e) *Outside employment*—(1) Incompatible activities. (i) A Commissioner shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Commission employment. Incompatible outside employment and activities include, but are not limited to:

(ii) Outside employment of Commissioners in contravention of the following provisions of section 1 of the Federal Power Act:

> No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation, engaged in the generation, transmission, distribution, or sale of power, or owning stock

or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of Commissioner. Said Commissioners shall not engage in any other business, vocation or employment. (16 U.S.C. 792)

Pursuant to Commission policy, Commissioners are subject to identical restrictions in their employment relations to natural gas companies as defined in section 2 of the Natural Gas Act. (15 U.S.C. 717a)

(iii) Outside employment by a public utility, licensee, or natural gas company subject to the jurisdiction of the Commission, or by a parent corporation of any of the foregoing, or by a person whose status under the Federal Power Act or the Natural Gas Act is before the Commission for determination; or by a person in any Commission proceeding; or granted intervention.

(iv) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

(v) Outside employment which tends to impair the mental or physical capacity of the Commissioner to perform his Commission duties and responsibilities in an acceptable manner; or

(vi) Outside employment under conditions or arrangements that may involve violation of law.

(2) Teaching, lecturing, writing. Commissioners are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or the regulations in this Subpart C.

(i) Commissioners shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission.

(ii) Commissioners shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or of the Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of Commission employment, except when that information has been made available to the public or will be made available on request or when the Executive Director has given written authorization for the nonpublic information on the basis that the use is in the public interest. For additional requirements and procedures relating to the misuse and disclosure of information see § 3c.206 (f) and (g).

(f) Commissioners may not receive nongovernment reimbursement for travel or expenditures on official business.

(g) *Limitations on prohibitions of paragraphs (b) and (c) of this section.* The prohibitions of paragraphs (b) and (c) of this section do not preclude a Commissioner from:

(1) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civil organization.

(2) Participation in the activities of national or state political parties not prescribed by law.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.205 Ethical conduct.

(a) *Use of government property.* A Commissioner shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for other than officially approved activities. A Commissioner has a positive duty to protect and conserve government property, including equipment, supplies, and other property entrusted or issued to him.

(b) *Misuse of information.* (1) For the purpose of furthering a private interest, a Commissioner shall not, except as provided in § 3c.204(e)(2) and paragraph (b)(3) of this section, directly or indirectly use, or allow the use of, official information obtained through or in connection with his Commission employment which has not been made available to the general public.

(2) Part 388 of this chapter sets up the procedures for making available to the public, information in the public files and records of the Commission and specifies the particular files and records which are not generally available to the public. Section 388.107 of this chapter defines the responsibilities of Commissioners when served with a subpoena duces tecum and outlines the procedures to be followed when the material sought is not part of the public files and records of the Commission.

(3) Section 30(b) (16 U.S.C. 825b) of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act prohibit any Commissioner in the absence of Commission or court direction, from divulging any fact or information which may come to his knowledge during the course of examination of books or other accounts.

(4) The nature and time of any proposed action by the Commission are confidential and shall not be divulged to anyone outside the Commission. The Secretary of the Commission has the exclusive responsibility and authority for authorizing the initial public releases of information concerning Commission actions or decisions.

(5) Section 385.2201 of this chapter states the prohibitions against ex parte communications in on-the-record proceedings to Commissioners, members of their personal staffs, Administrative Law Judge or other employees participating in the decision in such proceedings.

(c) *Indebtedness.* Commissioners shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. "A just financial obligation" means one acknowledged by the Commissioner or reduced to judgment by a court, or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between a Commissioner and an alleged creditor, the Commission shall not be required to determine the validity or amount of the disputed debt. Each Commissioner should arrange his personal financial affairs to avoid any request to the Commission for administrative action to assist in the collection of debts.

(d) A Commissioner shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. This paragraph does not preclude fundraising activities by employee organizations under section 3 of the Executive Order 10927, March 18, 1961, 26 FR 2383.

(e) Commissioners shall conduct themselves in such a manner that the work of the Commission is effectively accomplished and shall also observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

(f) Commissioners shall avoid any action, whether or not specifically prohibited by §§ 3c.204 and 3c.206 which might result in or create the appearance of:

(1) Using public office for private gain; or

(2) Giving preferential treatment to any person; or

(3) Impeding government efficiency or economy; or

(4) Losing complete independence or impartiality of action;

(5) Making a government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government and the Federal Power Commission.

(7) Commissioners shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government and to the Commission.

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

§ 3c.206 Miscellaneous statutes and regulations.

Each Commissioner shall acquaint himself with the following statutes and regulations relating to ethical conduct. The full texts of these statutes and regulations are available in the offices of the Agency Counselor and Director, Office of Personnel Programs.

(a) *General.* (1) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service," and Federal Power Commission Administrative Order No. 66, July 23, 1958, setting forth canons of conduct based on H. Con. Res. 175.

(2) Executive Order 11222, May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees, 30 FR 6469, as amended by Executive Order 11590 of April 22, 1971, 36 FR 7831, and the implementing regulations issued by the Civil Service Commission, 30 FR 12529, 5 CFR Part 735.

(3) Violation of any law, rule, or regulation, administered by the Civil Service Commission, or failure to adhere to established policies, regulations, standards, and instructions on personnel management subject to the jurisdiction of the Commission (Civil Service Rule 5.4, 5 CFR 5.4).

(4) Refusal to furnish testimony or information to authorized representatives of the Civil Service Commission in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission [Civil Service Regulation 731.201(d), 5 CFR 731.201(d)].

(5) Executive Order 10927, March 18, 1961, 26 FR 2383, Abolishing the President's Committee on Fundraising within the Federal Service and providing for the conduct of fundraising activities.

(6) The prohibitions relating to gifts to superiors (5 U.S.C. 7351).

(b) *Personal conduct.* (1) The provision relating to the habitual use of intoxicants to excess. (5 U.S.C. 7352).

(2) The prohibition against criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct. [Civil Service Regulation 731.201(b), 5 CFR 731.201(b)].

(c) *Disloyalty and striking.* (1) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).[1]

(2) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).[1]

(d) *Foreign governments.* (1) The prohibition against accepting a gift, present, decoration, or any other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Pub. L. 89-673, 80 Stat. 952.

(2) The prohibition against serving while on annual leave or leave without pay, with or without remuneration, for any foreign government, corporation, partnership or individual that is in competition with American industry (Executive Order 5221, November 11, 1929). (18 CFR 3.735-11)

(3) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(e) *Political activities.* (1) The prohibitions against political activities (the former Hatch Act) in subchapter III of chapter 73 of title 5, U.S.C. and 18 U.S.C. 602, 603, 607, and 608. The prohibitions, and exemptions therefrom, with respect to Government employees holding state, territorial, or municipal offices. (Civil Service Regulations, 5 CFR Part 733)

(2) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(3) No part of the money appropriated by any enactment of Congress shall, in absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a

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member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. The penalty for violation includes fine or imprisonment and removal.

(f) *Disclosure of information.* (1) Section 301(b) (16 U.S.C. 825b) of the Federal Power Act and section 8(b) (15 U.S.C. 717g) of the Natural Gas Act forbid employees, in the absence of Commission or court direction from divulging information gained in examining books or accounts.

(2) Part 388 of this chapter outlines what is public information and what is not.

(3) Section 385.2201 describes the prohibitions against ex parte communications.

(4) Federal Power Commission Administrative Order No. 56, July 11, 1956, describes standards of conduct relating to "Official Staff Contacts Outside the Commission".

(g) *The prohibitions* against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information. (18 U.S.C. 1905)

(h) *Bribery; graft, and conflicts of interest.* (1) Chapter 11 of title 18, United States Code, especially:

Sec. 201 Bribery of public officials and witnesses.
Sec. 202 Definitions.
Sec. 203 and 209 Outside compensation in matters affecting the government.
Sec. 205 Activities in claims against and other matters affecting the government.
Sec. 207 Disqualification of former officers and employees in matters connected with former duties.
Sec. 208 Acts affecting personal financial interests.
Sec. 210 Offer to procure appointive public office.
Sec. 211 Acceptance or solicitation to obtain appointive public office.

(2) Federal Power Act, section 1 (16 U.S.C. 792) restricting outside employment and financial interests of Commissioners.

(3) Section 385.2103 of this chapter states the restrictions against appearances by former employees.

(i) *Fraud and deceit, embezzlement, extortion.* (1) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917). The prohibition against intentional false statements or deception or fraud in examination for appointment [Civil Service Regulation 731.201(c), 5 CFR 731.201(c)]. The prohibition against influencing another to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. (Civil Service Rule 4.3, 5 CFR 4.3)

(2) The prohibition against fraud or false statements in a Government matter. (18 U.S.C. 1001)

(3) The prohibition against counterfeiting and forging transportation requests. (18 U.S.C. 508)

(4) The prohibition against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his employment. (18 U.S.C. 654)

(5) The prohibition against extortion. (18 U.S.C. 872)

(j) *Misuse of Government property.* (1) The prohibition against the misuse of a Government vehicle. [31 U.S.C. 638a(c)]

(2) The prohibition against the misuse of the franking privilege. (18 U.S.C. 1719)

(3) The prohibition against mutilating or destroying a public record. (18 U.S.C. 2071)

(4) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285). (Order 319, 31 FR 4118, March 9, 1966, as amended by Order

353, 32 FR 15239, 15240, November 3, 1967.)

[Order 532, 40 FR 29275, July 11, 1975. Redesignated by Order 564, 42 FR 17451, Apr. 1, 1977, and amended by Order 225, 47 FR 19055, May 3, 1982]

SUBCHAPTER B—REGULATIONS UNDER THE FEDERAL POWER ACT

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4.304 Payment.
4.305 Enforcement.

AUTHORITY: Federal Power Act, 16 U.S.C. 791a-825r, as amended by the Electric Consumers Protection Act of 1986; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: Order 141, 12 FR 8485, Dec. 19, 1947, unless otherwise noted.

Subpart A—Determination of Cost of Projects Constructed Under License

§ 4.1 Initial cost statement.

(a) *Notification of Commission.* When a project is constructed under a license issued under the Federal Power Act, the licensee shall, within one year after the original project is ready for service, file with the Commission a letter, in quadruplicate, declaring that the original costs have been booked in compliance with the Commission's Uniform System of Accounts and the books of accounts are ready for audit.

(b) *Licensee's books.* The licensee's books of accounts for each project shall be maintained in such a fashion that each year's additions, betterments, and delections to the project may be readily ascertained.

(c) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available to the public for inspection and copying when specifically requested.

(d) *Compliance with the Act.* Compliance with the provisions of this section satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

[Order 53, 44 FR 61948, Oct. 29, 1979]

§ 4.3 Report on project cost.

(a) *Scheduling an audit.* When the original cost declaration letter, filed in accordance with § 4.1 is received by the Commission, its representative will sechedule and conduct an audit of the books, cost records, engineering reports, and other records supporting the project's original cost. The audit may include an inspection of the project works.

(b) *Project records.* The cost records shall be supported by memorandum accounts reflecting the indirect and overhead costs prior to their spread to primary accounts as well as all the details of allocations including formulas utilized to spread the indirect and overhead costs to primary accounts.

(c) *Report by Commission staff.* Upon completion of the audit, a report will be prepared for the Commission setting forth the audit findings and recommendations with respect to the cost as claimed.

[Order 53, 44 FR 61948, Oct. 29, 1979]

§ 4.4 Service of report.

Copies of such report will be served by certified mail upon said licensees, and copies will also be sent to the State public service commission, or if the States has not regulatory agency, to the Governor of the State where such project is located, and to such other parties as the Commission shall prescribe, and the report will be made available for public inspection at the time of service upon the licensee.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-628 (1976 & Supp. V 1981), Dept. of Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978))

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 344, 48 FR 49010, Oct. 24, 1983]

§ 4.5 Time for filing protest.

Thirty days after service thereof will be allowed to such licensee within which to file a protest to such reports.

If no protest is filed within the time allowed, the Commission will issue such order as may be appropriate. If a protest is filed, a public hearing will be ordered in accordance with Subpart E of Part 385 of this chapter.

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 4.6 Burden of proof.

The burden of proof to sustain each item of claimed cost shall be upon the licensee and only such items as are in the opinion of the Commission supported by satisfactory proof may be entered in the electric plant accounts of the licensee.

[Order 53, 44 FR 61948, Oct. 29, 1979]

§ 4.7 Findings.

(a) *Commission determination.* Final action by the Commission will be in the form of an order served upon all parties to the proceeding. One copy of the order will be furnished to the Secretary of Treasury by the Commission.

(b) *Adjustments to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

[Order 53, 44 FR 61948, Oct. 29, 1979]

Subpart B—Determination of Fair Value of Constructed Projects, Under Section 23(a) of the Act

§ 4.10 Valuation data.

(a) *Notification of Commission.* In every case arising under section 23(a) of the Federal Power Act that requires the determination of the fair value of a project already constructed, the licensee shall, within six months after the date of issuance of a license, file with the Commission a letter, in quadruplicate.

(b) *Contents of letter.* The letter referred to in paragraph (a) shall contain a statement to the effect that an inventory and appraisal in detail, as of the effective date of the license, of all property subject thereto and to be so valued has been completed. The letter shall also include a statement to the effect that the actual legitimate original cost, or if not known, the estimated original cost, and accrued depreciation of the property, classified by prime accounts as prescribed in the Commission's Uniform System of Accounts, have been established.

(c) *Licensee's books.* The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the projects may be readily ascertained.

(d) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available for inspection and copying by the public when specifically requested.

[Order 53, 44 FR 61948, Oct. 29, 1979]

§ 4.11 Reports.

Representatives of the Commission will inspect the project works, engineering reports, and other records of the project, check the inventory and make an appraisal of the property and an audit of the books, records, and accounts of the licensee relating to the property to be valued, and will prepare a report of their findings with respect to the inventory, appraisal, original cost, accrued depreciation, and fair value of the property.

§ 4.12 Service of report.

A copy of such report will be served by certified mail upon said licensee, and copies will also be sent to the State public service commission, or if the State has no regulatory agency, to the Governor of the State where such project is located. The report will be made available for public inspection at the time of service upon the licensee.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-628 (1976 & Supp. V 1981), Dept. of Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978))

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 344, 48 FR 49010, Oct. 24, 1983]

§ 4.13 Time for filing protest.

Thirty days after service thereof will be allowed to the licensee within which to file a protest to such report.

§ 4.14 Hearing upon report.

(a) *Public hearing.* After the expiration of the time within which a protest may be filed, a public hearing will be ordered in accordance with Subpart E of Part 385 of this chapter.

(b) *Commission determination.* After the conclusion of the hearing, the Commission will make a finding of fair value, accompanied by an order which will be served upon the licensee and all parties to the proceeding. One copy of the order shall be furnished to the Secretary of the Treasury by the Commission.

(c) *Adjustment to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the fair value of the project as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

[Order 53, 44 FR 61949, Oct. 29, 1979, as amended by Order 225, 47 FR 19056, May 3, 1982]

Subpart C—Determination of Cost of Constructed Projects not Subject to Section 23(a) of the Act

§ 4.20 Initial statement.

(a) *Notification of Commission.* In all cases where licenses are issued for projects already constructed, but which are not subject to the provisions of section 23(a) of the Act (49 Stat. 846; 16 U.S.C. 816), the licensee shall, within 6 months after the date of issuance of license, file with the Commission a letter, in quadruplicate.

(b) *Contents of letter.* The letter referred to in paragraph (a) of this section shall contain a statement to the effect that an inventory in detail of all property included under the license, as of the effective date of such license, has been completed. The letter shall also include a statement to the effect that actual legitimate original cost, or if not known, the estimated original cost, and accrued depreciation of the property, classified by prime accounts as prescribed in the Commission's Uniform System of Accounts, have been established.

(c) *Licensee's books.* The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the project may be readily ascertained.

(d) *Availability of information to the public.* The information made available to the Commission in accordance with this section must be available for inspection and copying by the public when specifically requested.

(e) *Compliance with the Act.* Compliance with the provisions of this section satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

[Order 53, 44 FR 61949, Oct. 29, 1979]

§ 4.21 Reports.

Representatives of the Commission will inspect the project works, engineering reports, and other records of the project, check the inventory and estimated depreciation, make an audit of the books, records, and accounts of the licensee relating to the property under license, and prepare a report of their findings with respect to the inventory, the original cost of the property, and the estimated accrued depreciation thereon.

§ 4.22 Service of report.

Copies of such report will be served by certified mail upon said licensees, and copies will also be sent to the State public service commission, or if the State has no regulatory agency, to the Governor of the State where such project is located, and to such other parties as the Commission shall prescribe, and the report will be made available for public inspection at the time of service upon the licensee.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-628 (1976 & Supp. V 1981), Dept. of Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978))

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 344, 48 FR 49010, Oct. 24, 1983]

§ 4.23 Time for filing protest.

Thirty days after service thereof will be allowed to such licensee within which to file a protest to such reports. If no protest is filed within the time allowed, the Commission will issue such order as may be appropriate. If a protest is filed, a public hearing will be ordered in accordance with Subpart E of Part 385 of this chapter.

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 4.24 Determination of cost.

The Commission, after receipt of the reports, or after the conclusion of the hearing if one is held, will determine the amounts to be included in the electric plant accounts of the licensee as the cost of the property and the accrued depreciation thereon.

§ 4.25 Findings.

(a) *Commission determination.* Final action by the Commission will be in the form of an order served upon all parties to the proceeding. One copy of the order shall be furnished to the Secretary of Treasury by the Commission.

(b) *Adjustment to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

[Order 53, 44 FR 61949, Oct. 29, 1979]

Subpart D—Application for Preliminary Permit, License or Exemption: General Provisions

AUTHORITY: Federal Power Act, as amended, 16 U.S.C. 792-828c; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

§ 4.30 Applicability and definitions.

(a) This subpart applies to any application for preliminary permit, license, or exemption from licensing.

(b) For the purposes of this part—

(1)(i) "Competing development application" means any application for a license or exemption from licensing for a proposed water power project that would develop, conserve, and utilize, in whole or in part, the same or mutually exclusive water resources that would be developed, conserved, and utilized by a proposed water power project for which an initial preliminary permit or initial development application has been filed and is pending before the Commission.

(ii) "Competing preliminary permit application" means any application for a preliminary permit for a proposed water power project that would develop, conserve, and utilize, in whole or in part, the same or mutually exclusive water resources that would be developed, conserved and utilized by a proposed water power project for which an initial preliminary permit or initial development application has been filed and is pending before the Commission.

(2) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. The term "not primarily for the generation of electricity" includes but is not limited to a conduit:

(i) Which was built for the distribution of water for agricultural, municipal, or industrial consumption and is operated for such a purpose; and

(ii) To which a hydroelectric facility has been or is proposed to be added.

(3) "Construction of a dam," for the purposes of provisions governing application for exemption of a small conduit hydroelectric facility, means any construction, repair, reconstruction, or modification of a dam that creates a new impoundment or increases the normal maximum surface elevation or the normal maximum surface area of an existing impoundment.

(4)(i) "Dam," for the purposes of provisions governing application for license of a major project—existing dam, means any structure for impounding or diverting water.

(ii) "Dam," for the purposes of provisions governing application for exemption of a small conduit hydroelectric facility, means any structure that impounds water.

(iii) "Dam," for the purposes of provisions governing application for exemption of a small hydroelectric power project, means any structure for impounding water, including any diversion structure that is designed to obstruct all or substantially all of the flow of a natural body of water.

(5) "Development application" means any application for either a license or exemption from licensing for a proposed water power project.

(6)(i) "Existing dam," for the purposes of provisions governing application for license of a major project—existing dam, means any dam (as defined in paragraph (b)(4)(i) of this section) that has already been constructed and which does not require any construction or enlargement of impoundment structures other than repairs or reconstruction.

(ii) "Existing dam," for the purposes of provisions governing application for exemption of a small hydroelectric power project, means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.

(7) "Existing impoundment," for the purposes of provisions governing application for license of a major project—existing dam, means any body of water that an existing dam impounds.

(8) "Federal lands," for the purposes of provisions governing application for exemption of a small hydroelectric power project, means any lands to which the United States holds fee title.

(9) "Fish and wildlife agencies" means that the United States Fish and Wildlife Service, the National Marine Fisheries Service, and any state agency with administrative management over fish and wildlife resources of the state or states in which a small conduit hydroelectric power project, or a qualifying hydroelectric small power production facility, as defined in § 292.203(c) of this chapter, is or will be located.

(10)(i) "Initial development application" means any acceptable application for either a license or exemption from licensing for a proposed water power project that would develop, conserve, and utilize, in whole or in part, water resources for which no other acceptable application for a license or exemption from licensing has been submitted for filing and is pending before the Commission.

(ii) "Initial preliminary permit application" means any acceptable application for a preliminary permit for a proposed water power project that would develop, conserve, and utilize, in whole or in part, water resources for which no other acceptable preliminary permit application has been submitted for filing and is pending before the Commission.

(11) "Initial license" means the first license issued for a water power project under either the Federal Water Power Act of 1920 or the Federal Power Act.

(12) "Install or increase," for the purposes of provisions governing application for exemption of a small hydroelectric power project, means to add new generating capacity at a site that has no existing generating units, to replace or rehabilitate an abandoned or unused existing generating unit, or to increase the generating capacity of any existing power plant by installing an additional generating unit or by rehabilitating an operable generating unit in a way that increases its rated electric power output.

(13) "Licensed water power project" means a project, as defined in section 3(11) of the Federal Power Act, that is licensed under Part I of the Federal Power Act.

(14) "Major modified project" means any major project—existing dam, as defined in paragraph (b)(16) of this section, that would include:

(i) Any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or the normal maximum surface elevation of an existing impoundment; or

(ii) Any change in existing project works or operations that would result in a significant environmental impact.

(15) "Major unconstructed project" means any unlicensed water power project that would:

(i) Have a total installed generating capacity of more than 1.5 MW; and

(ii) Use the water power potential of a dam and impoundment which, at the time application is filed, have not been constructed.

(16) "Major project—existing dam" means a licensed or unlicensed, existing or proposed water power project that would:

(i) Have a total installed generating capacity or more than 2,000 horsepower (1.5 MW); and

(ii) Not use the water power potential provided by any dam except an existing dam.

(17) "Minor water power project" means any licensed or unlicensed, existing or proposed water power project that would have a total installed generation capacity of 2,000 horsepower (1.5 MW), or less.

(18) "New development," for the purposes of provisions governing application for license of a major project—existing dam, means any construction, installation, repair, reconstruction, or other change in the existing state of project works or appurtenant facilities, including any dredging and filling in project waters.

(19) "New license" means any license, except an annual license issued under section 15 of the Federal Power Act, for a water power project that is issued under the Federal Power Act after the initial license for that project.

(20)(i) "Non-Federal lands," for the purposes of provisions governing application for exemption of a small conduit hydroelectric facility, means any lands except lands to which the United States holds fee title.

(ii) "Non-Federal lands," for the purposes of provisions governing application for exemption of a small hydroelectric power project, mean any lands other than Federal lands defined in paragraph (b)(8) of this section.

(21) "Person" means any individual and, as defined in section 3 of the Federal Power Act, any corporation, municipality, or state.

(22) "Project," for the purposes of provisions governing application for exemption of a small hydroelectric power project, means:

(i) The impoundment and any associated dam, intake, water conveyance facility, power plant, primary transmission line, and other appurtenant facility if a lake or similar natural impoundment or a manmade impoundment is used for power generation; or

(ii) Any diversion structure other than a dam and any associated water conveyance facility, power plant, primary transmission line, and other appurtenant facility if a natural water feature other than a lake or similar natural impoundment is used for power generation.

(23) "Qualified exemption applicant" means any person who meets the requirements specified in § 4.31(c)(2) with respect to a small hydroelectric power project for which exemption from licensing is sought.

(24) "Qualified license applicant" means any person to whom the Commission may issue a license, as specified in section 4(e) of the Federal Power Act.

(25) "Real property interests," for the purposes of provisions governing application for exemption of a small conduit hydroelectric facility or a small hydroelectric power project, includes ownership in fee, rights-of-way, easements, or leaseholds.

(26) "Small conduit hydroelectric facility" means an existing or proposed hydroelectric facility that is constructed, operated, or maintained for the generation of electric power, and includes all structures, fixtures, equipment, and lands used and useful in the operation or maintenance of the hydroelectric facility, but excludes the conduit on which the hydroelectric facility is located or the transmission lines associated with the hydroelectric facility and which:

(i) Utilizes for electric power generation the hydroelectric potential of a conduit;

(ii) Is located entirely on non-Federal lands, as defined in paragraph (b)(20)(i) of this section;

(iii) Has an installed generating capacity of 15 MW or less;

(iv) Is not an integral part of a dam;

(v) Discharges the water it uses for power generation either:

(A) Into a conduit;

(B) Directly to a point of agricultural, municipal, or industrial consumption; or

(C) Into a natural water body if a quantity of water equal to or greater than the quantity discharged from the hydroelectric facility is withdrawn from that water body downstream into a conduit that is part of the same water supply system as the conduit on which the hydroelectric facility is located; and

(vi) Does not rely upon construction of a dam, which construction will create any portion of the hydrostatic head that the facility uses for power generation unless that construction would occur for agricultural, municipal, or industrial consumptive purposes even if hydroelectric generating facilities were not installed.

(27) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of notice of exemption or application under Subpart K of this chapter, which will have a total installed capacity of not more than 5 MW, and which:

(i) Would utilize for electric power generation the water power potential of an existing dam that is not owned or operated by the United States or by an instrumentality of the Federal Government, including the Tennessee Valley Authority; or

(ii)(A) Would utilize for the generation of electricity a natural water feature, such as a natural lake, waterfall, or the gradient of a natural stream, without the need for a dam or manmade impoundment; and

(B) Would not retain water behind any structure for the purpose of a storage and release operation.

(28) "PURPA benefits" means benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 210(a) of PURPA requires electric utilities to purchase electricity from, and to sell electricity to, qualifying facilities.

[Order 413, 50 FR 11676, Mar. 25, 1985, as amended by Order 487, 52 FR 48404, Dec. 22, 1987; Order 499, 53 FR 27001, July 18, 1988; Order 503, 53 FR 36567, Sept. 21, 1988]

§ 4.31 Initial or competing application: who may file.

(a) *Application for a preliminary permit or a license.* Any citizen, association of citizens, domestic corporation, municipality, or state may submit for filing an initial application or a competing application for a preliminary permit or a license for a water power project under Part I of the Federal Power Act.

(b) *Application for exemption of a small conduit hydroelectric facility*—(1) *Exemption from provisions other than licensing.* Any citizen, association of citizens, domestic corporation, municipality, or state that has all of the real property interests in the lands necessary to develop and operate that project, or an option to obtain those interests, may apply for exemption of a small conduit hydroelectric facility from provisions of Part I of the Federal Power Act, other than licensing provisions.

(2) *Exemption from licensing.* Any person having all the real property interests in the lands necessary to develop and operate the small conduit hydroelectric facility, or an option to obtain those interests, may apply for exemption of that facility from licensing under Part I of the Federal Power Act.

(c) *Application for case-specific exemption of a small hydroelectric power project*—(1) *Exemption from provisions other than licensing.* Any qualified license applicant or licensee seeking amendment of its license may apply for exemption of the related project from provisions of Part I of the Federal Power Act other than licensing provisions.

(2) *Exemption from licensing*—(i) *Only Federal lands involved.* If only rights to use or occupy Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person may apply for exemption of that project from licensing.

(ii) *Some non-Federal lands involved.* If real property interests in any non-Federal lands would be necessary to develop and operate the proposed small hydroelectric power project, any person who has all of the real property interests in non-Federal lands necessary to develop and operate that project, or an option to obtain those interests, may apply for exemption of that project from licensing.

[Order 413, 50 FR 11678, Mar. 25, 1985]

§ 4.32 Acceptance for filing or rejection.

(a) Each application must:

(1) For a preliminary permit or license, identify every person, citizen, association of citizens, domestic corporation, municipality, or state that has or intends to obtain and will maintain any proprietary right necessary to construct, operate, or maintain the project;

(2) For a preliminary permit or a license, identify (providing names and mailing addresses):

(i) Every county in which any part of the project, and any Federal facilities that would be used by the project, would be located;

(ii) Every city, town, or similar local political subdivision:

(A) In which any part of the project, and any Federal facilities that would be used by the project, would be located; or

(B) That has a population of 5,000 or more people and is located within 15 miles of the project dam;

(iii) Every irrigation district, drainage district, or similar special purpose political subdivision:

(A) In which any part of the project, and any Federal facilities that would be used by the project, would be located; or

(B) That owns, operates, maintains, or uses any project facilities or any Federal facilities that would be used by the project; and

(iv) Every other political subdivision in the general area of the project that there is reason to believe would likely be interested in, or affected by, the application.

(3)(i) For a license (other than a license under section 15 of the Federal Power Act) state that the applicant has made, either at the time of or before filing the application, a good faith effort to give notification by certified mail of the filing of the application to:

(A) Every property owner of record of any interest in the property within the bounds of the project, or in the case of the project without a specific boundary, each such owner of property which would underlie or be adjacent to any project works including any impoundments; and

(B) The entities identified in paragraph (a)(2) of this section, as well as any other Federal, state, municipal or other local government agencies that there is reason to believe would likely be interested in or affected by such application.

(ii) Such notification must contain the name, business address, and telephone number of the applicant and a copy of the Exhibit G contained in the application, and must state that a license application is being filed with the Commission.

(4)(i) As to any facts alleged in the application or other materials filed, be subscribed and verified under oath in the form set forth in paragraph (a)(3)(ii) of this section by the person filing, an officer thereof, or other person having knowledge of the matters sent forth. If the subscription and verification is by anyone other than the person filing or an officer thereof, it shall include a statement of the reasons therefor.

(ii) This (application, etc.) is executed in the

State of ______________________

County of ______________________

by: ______________

(Name) ______________ ______________

(Address) ______________________

being duly sworn, depose(s) and say(s) that the contents of this (application, etc.) are true to the best of (his or her) knowledge or belief. The undersigned applicant(s) has (have) signed the (application, etc.) this —— day of ————, 19——.

____

(Applicant(s))

By: ______________________

Subscribed and sworn to before me, a [Notary Public, or title of other official authorized by the state to notarize documents, as appropriate] of the State of ———— this day of ————, 19——.

/SEAL/ [if any]

(Notary Public, or other authorized official)

(5) Contain the information and documents prescribed in the following sections of this chapter, according to the type of application:

(i) Preliminary permit: § 4.81;

(ii) License for a minor water power project and a major water power project 5 MW or less: § 4.61;

(iii) License for a major unconstructed project and a major modified project: § 4.41;

(iv) License for a major project—existing dam: § 4.51;

(v) License for a transmission line only: § 4.71;

(vi) Nonpower license for a licensed project: § 16.7;

(vii) Exemption of a small conduit hydroelectric facility: § 4.92;

(viii) Case-specific exemption of a small hydroelectric power project: § 4.107; or

(ix) License or exemption for a project located at a new dam or diversion where the applicant seeks PURPA benefits: § 292.208.

(b)(1) Each applicant for a preliminary permit or a license must submit to the Commission's Secretary for filing an original and fourteen copies of the application and five sets of full-sized prints. The applicant must serve one copy of the application on the Commission's Regional Engineer for the appropriate region and on each consulted agency. The application may also include reduced prints of maps and drawings conforming to § 4.39(d). The originals (microfilm) of maps and drawings included in a license application under § 4.39(a) are not to be filed initially, but will be requested pursuant to paragraph (d) of this section.

(2) Each applicant for exemption must submit to the Commission's Secretary for filing an original and fourteen copies of the application and five sets of full-sized prints. An applicant must serve one copy of the application on the Commission's Regional Engineer for the appropriate region and on each consulted agency. Maps and drawings need not conform to the requirements of § 4.39, but must be of sufficient size, scale, and quality to permit easy reading and understanding. The original (microfilm) of maps and drawings are not to be filed initially, but will be requested pursuant to paragraph (d) of this section.

(c)(1) Every application for a licensee or exemption for a project with a capacity of 80 megawatts or less must include in its application copies of the statements made under § 4.38(b)(1)(vi).

(2) If an applicant reverses a statement of intent not to seek PURPA benefits:

(i) Prior to the Commission issuing a license or exemption, the reversal of intent will be treated as an amendment of the application under § 4.35 and the applicant must:

(A) Repeat the pre-filing consultation process under § 4.38; and

(B) Satisfy all the requirements in § 292.208 of this chapter; or

(ii) After the Commission issues a license or exemption for the project, the applicant is prohibited from obtaining PURPA benefits.

(d) When any application is found to conform to the requirements of paragraphs (a), (b) and (c) of this section, the Commission or its delegate will:

(1) Notify the applicant that the application has been accepted for filing, specifying the project number assigned and the date upon which the application was accepted for filing, and, for a license or exemption application, direct the filing of the originals (microfilm) of required maps and drawings;

(2)(i) For an application for a preliminary permit or a license, issue public notice of the application as required in the Federal Power Act;

(ii) For an application for exemption from licensing, publish notice once in a daily or weekly newspaper of general circulation in each county in which the project is or will be located; and

(3) If the project affects lands of the United States, notify the appropriate Federal office of the application and the specific lands affected, pursuant to section 24 of the Federal Power Act.

(4) For an application for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project

that would be located at a new dam or diversion, circulate the public notice issued for the application under paragraph (d)(2)(i) of this section to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the license requested. Any comments submitted by a fish and wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent loss of, or damage to, fish and wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the license application.

(e) In order for an application to conform adequately to the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, an application must be completed fully. No blanks should be left in the application. No material or information required in the application should be omitted. If an applicant believes that its application conforms adequately without containing certain required material or information, it must explain in detail why the material or information is not being submitted and what steps were taken by the applicant to provide the material or information. If the Commission finds that an application does not adequately conform to the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, the Commission or its designee will consider the application either deficient or patently deficient.

(1) *Deficient applications.* (i) An application that in the judgment of the Director of the Office of Hydropower Licensing does not conform to the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, may be considered deficient. An applicant having a deficient application will be afforded additional time to correct deficiencies, not to exceed 45 days from the date of notification in the case of an application for a preliminary permit or exemption from licensing or 90 days from the date of notification in the case of an application for license. Notification will be by letter or, in the case of minor deficiencies, by telephone. Any notification will specify the deficiencies to be corrected. Deficiencies must be corrected by submitting an original and the number of copies specified in paragraph (b) of this section of the specified materials or information to the Secretary within the time specified in the notification of deficiency.

(ii) Upon submission of a conforming application, action will be taken in accordance with paragraph (d) of this section.

(iii) If the revised application is found not to conform to the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, or if the revisions are not timely submitted, the revised application will be rejected. Procedures for rejected applications are specified in paragraph (e)(2)(iii).

(2) *Patently deficient applications.* (i) If, within 60 days of its filing date, the Director of the Office of Hydropower Licensing determines that an application patently fails to substantially comply with the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, or is for a project that is precluded by law, the application will be rejected as patently deficient with the specification of the deficiencies that render the application patently deficient.

(ii) If, after 60 days of its filing date, the Director of the Office of Hydropower Licensing determines that an application patently fails to substantially comply with the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38, or is for a project that is precluded by law:

(A) The application will be rejected by order of the Commission, if the Commission determines it is patently deficient; or

(B) The application will be considered deficient under paragraph (e)(1) of this section, if the Commission determines it is not patently deficient.

(iii) Any application that is rejected may be resubmitted if the deficiencies are corrected and if, in the case of a competing application, the resubmittal is timely. The date the rejected application is resubmitted will be considered the new filing date for purposes of determining its timeliness under § 4.36 and the disposition of competing applications under § 4.37.

(f) Any application will be considered "accepted for filing" as of the application filing date if the Secretary receives all of the information and documents necessary to conform to the requirements of paragraphs (a), (b) and (c) of this section and of § 4.38 within the time prescribed by the Commission or its delegate under paragraph (e) of this section.

(g) An applicant may be required to submit any additional information or documents that the Commission or its designee considers relevant for an informed decision on the application. The information or documents must take the form, and must be submitted within the time, that the Commission or its designee prescribes. An applicant may also be required to provide within a specified time additional copies of the complete application, or any of the additional information or documents that are filed, to the Commission or to any person, agency, or other entity that the Commission or its designee specifies. If an applicant fails to provide timely additional information, documents, or copies of submitted materials as required, the Commission or its designee may dismiss the application, hold it in abeyance, or take other appropriate action under this chapter or the Federal Power Act.

(h) A prospective applicant, prior to submitting its application for filing, may seek advice from the Commission staff regarding the sufficiency of the application. For this purpose, five copies of the draft application should be submitted to the Director of the Division of Project Management. An applicant or prospective applicant may confer with the Commission staff at any time regarding deficiencies or other matters related to its application. All conferences are subject to the requirements of § 385.2201 of this chapter governing ex parte communications. The opinions or advice of the staff will not bind the Commission or any person delegated authority to act on its behalf.

(i) Intervention in any preliminary permit proceeding will not constitute intervention in any subsequent licensing or exemption proceeding.

(j) Any application, the effectiveness of which is conditioned upon the future occurrence of any event or circumstance, will be rejected.

[Order 413, 50 FR 11678, Mar. 25, 1985, as amended by Order 480, 52 FR 37285, Oct. 6, 1987; Order 487, 52 FR 48404, Dec. 22, 1987; Order 499, 53 FR 27001, July 18, 1988]

§ 4.33 Limitations on submitting applications.

(a) *Limitations on submission and acceptance of a preliminary permit application.* The Commission will not accept an application for a preliminary permit for project works that:

(1) Would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved, and utilized by a project for which there is an unexpired preliminary permit.

(2) Would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved, and utilized by a project for which an initial development application has been filed unless the preliminary permit application is filed not later than the time allowed under § 4.36(a) for the filing of applications in competition against an initial application for a preliminary permit that would develop, conserve, and utilize, in whole or in part, the same resources.

(b) *Limitations on submission and acceptance of a license application.* The Commission will not accept an application for a license for project works that would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved, and utilized by a project for which there is an unexpired preliminary permit, unless the permittee has submitted an application for license.

(c) *Limitations on submission and acceptance of an application for a license that would affect an exempted project.* (1) Except as permitted under § 4.33(c)(2), § 4.94(d), or § 4.106 (c), (e) or (f), the Commission will not accept an application for a license for project works that are already exempted from licensing under this Part.

(2) If a project is exempted from licensing pursuant to § 4.103 or § 4.109 and real property interests in any non-Federal lands would be necessary to develop or operate the project, any person who is both a qualified license applicant and has any of those real property interests in non-Federal lands may submit a license application for that project. If a license application is submitted under this clause, any other qualified license applicant may submit a competing license application in accordance with § 4.36.

(d) *Limitations on submission and acceptance of exemption applications*—(1) *Unexpired permit or license.* (i) If there is an unexpired permit in effect for a project, the Commission will accept an application for exemption of that project from licensing only if the exemption applicant is the permittee. Upon acceptance for filing of the permittee's application, the permit will be considered to have expired.

(ii) If there is an unexpired license in effect for a project, the Commission will accept an application for exemption of that project from licensing only if the exemption applicant is the licensee.

(2) *Pending license applications.* If an accepted license application for a project was submitted by a permittee before the preliminary permit expired, the Commission will not accept an application for exemption of that project from licensing submitted by a person other than the former permittee.

(3) *Submitted by qualified exemption applicant.* If the first accepted license application for a project was filed by a qualified exemption applicant, the applicant may request that its license application be treated initially as an application for exemption from licensing by so notifying the Commission in writing and, unless only rights to use or occupy Federal lands would be necessary to develop and operate the project, by submitting documentary evidence showing that the applicant holds the real property interests required under § 4.31. Such notice and documentation must be submitted not later than the last date for filing protests or motions to intervene prescribed in the public notice issued for its license application under § 4.32(d)(2).

(e) *Priority of exemption applicant's earlier permit or license application.* Any accepted preliminary permit or license application submitted by a person who later applies for exemption of the project from licensing will retain its validity and priority under this subpart until the preliminary permit or license application is withdrawn or the project is exempted from licensing.

[Order 413, 50 FR 11680, Mar. 25, 1985, as amended by Order 499, 53 FR 27002, July 18, 1988]

§ 4.34 Hearings on applications.

The Commission may order a hearing on an application for a preliminary permit, a license, or an exemption from licensing upon either its own motion or the motion of any interested party of record. Any hearings will be limited to the issues prescribed by order of the Commission.

[Order 413, 50 FR 11680, Mar. 25, 1985]

§ 4.35 Amendment of application; date of acceptance.

(a) *General rule.* Except as provided in paragraph (d) of this section, if an applicant amends its filed application as described in paragraph (b) of this section, the date of acceptance of the application under § 4.32(f) is the date on which the amendment to the application was filed.

(b) Paragraph (a) of this section applies if an applicant:

(1) Amends its filed license or preliminary permit application in order to change the status or identity of the applicant or to materially amend the proposed plans of development; or

(2) Amends its filed application for exemption from licensing in order to materially amend the proposed plans of development, or

(3) Amends its filed application in order to change its statement of intent of whether or not it will seek benefits under section 210 of PURPA, as originally filed under § 4.32(c)(1).

(c) An application amended under paragraph (a) is a new filing for:

(1) The purpose of determining its timeliness under § 4.36 of this part;

(2) Disposing of competing applications under § 4.37; and

(3) Reissuing public notice of the application under § 4.32(d)(2).

(d) If an application is amended under paragraph (a) of this section, the Commission will rescind any acceptance letter already issued for the application.

(e) *Exceptions.* This section does not apply to:

(1) Any corrections of deficiencies made pursuant to § 4.32(e)(1);

(2) Any amendments made pursuant to § 4.37(b)(4) by a State or a municipality to its proposed plans of development to make them as well adapted as the proposed plans of an applicant that is not a state or a municipality;

(3) Any amendments made pursuant to § 4.37(c)(2) by a priority applicant to its proposed plans of development to make them as well adapted as the proposed plans of an applicant that is not a priority applicant;

(4) Any amendments made by a license or an exemption applicant to its proposed plans of development to satisfy requests of fish and wildlife agencies submitted after an applicant has consulted under § 4.38; and

(5)(i) Any license or exemption applicant with a project located at a new dam or diversion who is seeking PURPA benefits and who:

(A) Has filed an adverse environmental effects (AEE) petition pursuant to § 292.211 of this chapter; and

(B) Has proposed measures to mitigate the adverse environmental effects which the Commission, in its initial determination on the AEE petition, stated the project will have.

(ii) This exception does not protect any proposed mitigative measures that the Commission finds are a pretext to avoid the consequences of materially amending the application or are outside the scope of mitigating the adverse environmental effects.

(f) *Definitions.* (1) For the purposes of this section, a material amendment to plans of development proposed in an application for a license or exemption from licensing means any fundamental and significant change, including but not limited to:

(i) A change in the installed capacity, or the number or location of any generating units of the proposed project if the change would significantly modify the flow regime associated with the project;

(ii) A material change in the location, size, or composition of the dam, the location of the powerhouse, or the size and elevation of the reservoir if the change would:

(A) Enlarge, reduce, or relocate the area of the body of water that would lie between the farthest reach of the proposed impoundment and the point of discharge from the powerhouse; or

(B) Cause adverse environmental impacts not previously discussed in the original application; or

(iii) A change in the number of discrete units or development to be included within the project boundary.

(2) For purposes of this section, a material amendment to plans of development proposed in an application for a preliminary permit means a material change in the location of the powerhouse or the size and elevation of the reservoir if the change would enlarge, reduce, or relocate the area of the body of water that would lie between the farthest reach of the proposed impoundment and the point of discharge from the powerhouse.

(3) For purposes of this section, a change in the status of an applicant means:

(i) The acquisition or loss of preference as a state or a municipality under section 7(a) of the Federal Power Act; or

(ii) The loss of priority as a permittee under section 5 of the Federal Power Act.

(4) For purposes of this section, a change in the identity of an applicant means a change that either singly, or together with previous amendments, causes a total substitution of all the original applicants in a permit or a license application.

[Order 413, 50 FR 11680, Mar. 25, 1985, as amended by Order 499, 53 FR 27002, July 18, 1988]

§ 4.36 Competing applications: deadlines for filing; notices of intent; comparisons of plans of development.

The public notice of an initial preliminary permit application or an initial development application shall prescribe the deadline for filing protests and motions to intervene in that proceeding (the "prescribed intervention deadline").

(a) *Deadlines for filing applications in competition with an initial preliminary permit application.* (1) Any preliminary permit application or any development application not filed pursuant to a notice of intent must be submitted for filing in competition with an initial preliminary permit application not later than the prescribed intervention deadline.

(2) Any preliminary permit application filed pursuant to a notice of intent must be submitted for filing in competition with an initial preliminary permit application not later than 30 days after the prescribed intervention deadline.

(3) Any development application filed pursuant to a notice of intent must be submitted for filing in competition with an initial preliminary permit application not later than 120 days after the prescribed intervention deadline.

(b) *Deadlines for filing applications in competition with an initial development application.* (1) Any development application not filed pursuant to a notice of intent must be submitted for filing in competition with an initial development application not later than the prescribed intervention deadline.

(2) Any development application filed pursuant to a notice of intent must be submitted for filing in competition with an initial development application not later than 120 days after the prescribed intervention deadline.

(3) If the Commission has accepted an application for exemption of a project from licensing and the application has not yet been granted or denied, the applicant for exemption may submit a license application for the project if it is a qualified license applicant. The pending application for exemption from licensing will be considered withdrawn as of the date the Commission accepts the license application for filing. If a license application is accepted for filing under this provision, any qualified license applicant may submit a competing license application not later than the prescribed intervention deadline set for the license application.

(4) Any preliminary permit application must be submitted for filing in competition with an initial development application not later than the deadlines prescribed in paragraphs (a)(1) and (a)(2) for the submission of preliminary permit applications filed in competition with an initial preliminary permit application.

(c) *Notices of intent.* (1) Any notice of intent to file an application in competition with an initial preliminary permit or an initial development application must be submitted for filing not later than the prescribed intervention deadline for the initial application.

(2) A notice of intent must include:

(i) The exact name, business address, and telephone number of the prospective applicant; and

(ii) An unequivocal statement of intent to submit a preliminary permit application or a development application (specify which type of application).

(d) *Requirements for competing applications.* (1) Any competing application must:

(i) Conform to all requirements for filing an initial application; and

(ii) Include proof of service of a copy of the competing application on the person(s) designated in the public notice of the initial application for service of pleadings, documents, or communications concerning the initial application.

(2) *Comparisons of plans of development.* (i) After the deadline for filing applications in competition against an initial development application has expired, the Commission will notify each license and exemption applicant of the identity of the other applicants.

(ii) Not later than 14 days after the Commission serves the notification described in paragraph (d)(2)(i) of this section, if a license or exemption applicant has not already done so, it must serve a copy of its application on each of the other license and exemption applicants.

(iii) Not later than 60 days after the Commission serves the notification described in paragraph (d)(2)(i) of this section, each license and exemption applicant must file with the Commission a detailed and complete statement of how its plans are as well or better adapted than are the plans of each of the other license and exemption applicants to develop, conserve, and utilize in the public interest the water resources of the region. These statements should be supported by any technical analyses that the applicant deems appropriate to support its proposed plans of development.

[Order 413, 50 FR 11680, Mar. 25, 1985; 50 FR 23947, June 7, 1985]

§ 4.37 Rules of preference among competing applications.

Except as provided in § 4.33(f), the Commission will select among competing applications on the following bases:

(a) If an accepted application for a preliminary permit and an accepted application for a license propose project works that would develop, conserve, and utilize, in whole or in part, the same water resources, and the applicant for a license has demonstrated its ability to carry out its plans, the Commission will favor the license applicant unless the permit applicant substantiates in its filed application that its plans are better adapted to develop, conserve, and utilize in the public interest the water resources of the region.

(b) If two or more applications for preliminary permits or two or more applications for licenses (not including applications for a new license under section 15 of the Federal Power Act) are filed by applicants for project works that would develop, conserve, and utilize, in whole or in part, the same water resources, and if none of the applicants is a preliminary permittee whose application for license was accepted for filing within the permit period, the Commission will select between or among the applicants on the following bases:

(1) If both of two applicants are either a municipality or a state, the Commission will favor the applicant whose plans are better adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans.

(2) If both of two applicants are either a municipality or a state, or neither of them is a municipality or a state, and the plans of the applicants are equally well adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will favor the applicant with the earliest application acceptance date.

(3) If one of two applicants is a municipality or a state, and the other is not, and the plans of the municipality or a state are at least as well adapted to develop, conserve, and utilize in the public interest the water resources of the region, the Commission will favor the municipality or state.

(4) If one of two applicant is a municipality or a state, and the other is not, and the plans of the applicant who is not a municipality or a state are better adapted to develop, conserve, and utilize in the public interest the water resources of the region, the Commission will inform the municipality or state of the specific reasons why its plans are not as well adapted and afford a reasonable period of time for the municipality or state to render its plans at least as well adapted as the other plans. If the plans of the municipality or state are rendered at least as well adapted within the time allowed, the Commission will favor the municipality or state. If the plans are not rendered at least as well adapted within the time allowed, the Commission will favor the other applicant.

(c) If two or more applications for licenses are filed for project works which would develop, conserve, and utilize, in whole or in part, the same water resources, and one of the applicants was a preliminary permittee whose application was accepted for filing within the permit period ("priority applicant"), the Commission will select between or among the applicants on the following bases:

(1) If the plans of the priority applicant are at least as well adapted as the plans of each other applicant to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will favor the priority applicant.

(2) If the plans of an applicant who is not a priority applicant are better adapted than the plans of the priority applicant to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will inform the priority applicant of the specific reasons why its plans are not as well adapted and afford a reasonable period of time for the priority applicant to render its plans at least as well adapted as the other plans. If the plans of the priority applicant are rendered at least as well adapted within the time allowed, then the Commission will favor the priority applicant. If the plans of the priority applicant are not rendered as well adapted within the time allowed, the criteria specified in paragraph (b) will govern.

(3) The criteria specified in paragraph (b) will govern selection among applicants other than the priority applicant.

(d) With respect to a project for which an application for an exemption from licensing has been accepted for filing, the Commission will select among competing applications on the following bases:

(1) If an accepted application for a preliminary permit and an accepted application for exemption from licensing propose to develop mutually exclusive small hydroelectric power projects, the Commission will favor the applicant whose substantiated plans in the application received by the Commission are better adapted to develop, conserve, and utilize in the public interest the water resources of the region. If the substantiated plans are equally well adapted, the Commission will favor the application for exemption from licensing.

(2) If an application for a license and an application for exemption from licensing, or two or more applications for exemption from licensing are each accepted for filing and each proposes to develop a mutually exclusive project, the Commission will favor the applicant whose plans are better adapted to develop, conserve, and utilize in the public interest the water resources of the region. If the plans are equally well adapted, the Commission will favor the applicant with the earliest application acceptance date.

(e) A municipal applicant must provide evidence that the municipality is competent under applicable state and local laws to engage in the business of developing, transmitting, utilizing, or distributing power, or such applicant will be considered a non-municipal applicant for the purpose of determining the disposition of competing applications.

[Order 413, 50 FR 11682, Mar. 25, 1985]

§ 4.38 Pre-filing consultation requirements.

(a) An applicant for a license or exemption from licensing must consult with each appropriate Federal and state agency before submitting its application to the Commission. The agencies to be consulted must include the appropriate certifying agency under section 401 of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. 1341, and the Federal agency administering any United States lands utilized or occupied by the project as well as other appropriate resource agencies. To assist applicants, the Director of the Office of Hydropower Licensing or the Regional Engineer responsible for the area will, upon request, provide a list of known appropriate Federal and state agencies. An applicant for an exemption from licensing or an applicant for a license seeking benefits under section 210 of the Public Utility Regulatory Policies Act, as amended, for a project that would be located at a new dam or diversion must, in addition to meeting the requirements of this section, comply with the consultation requirements in § 4.301.

(b) Consultation consists of the following:

(1) *Initial stage of consultation.* A potential applicant must contact all

appropriate agencies and provide each of them with the following information:

(i) Detailed maps with proper land descriptions of the entire project area by township, range and section as well as by state, county, river, river mile, and the closest town. Show the specific location of all proposed project facilities, including roads, transmission lines, and any other appurtenant facilities;

(ii) A general engineering design of the proposed project with a description of any proposed diversion of a stream through a canal or a penstock;

(iii) A summary of the proposed operational mode of the project;

(iv) Identification of the environment to be affected and the significant resources present, and the applicant's environmental protection, mitigation, and enhancement plans to the extent known at that time; and

(v) Streamflow and water regime information, including drainage area, natural flow periodicity, montly flow rates and durations, mean flow figures illustrating the mean daily streamflow curve for each month of the year at the proposed point of diversion or impoundment with location of the stream gauging station, the method used to generate the streamflow data provided, and copies of all records used to derive the flow data used in the applicant's engineering calculations.

(vi)(A) A statement (with a copy to the Commission) whether or not the applicant will seek benefits under section 210 of PURPA by satisfying the requirements for qualifying hydroelectric small power production facilities in § 292.203 of this chapter; and

(B) If benefits under section 210 of PURPA are sought, a statement on whether or not the applicant believes the project is located at a new dam or diversion (as that term is defined in § 292.202(p) of this chapter) and a request for the agencies' view on that belief, if any.

(2) *Second stage of consultation.* A potential applicant must perform any reasonable studies that are necessary for the Commission to make an informed decision regarding the merits of the application.

(i) Studies must be conducted prior to filing an application if the results:

(A) Would influence the economic feasibility of the project (e.g., minimum flow study);

(B) Would influence the technical feasibility of the project (e.g., study of potential mass soil movement);

(C) Are needed to determine the design or location of project features;

(D) Are needed to determine the impacts of the project on important natural or cultural resources (e.g., resource surveys);

(E) Are necessary to determine suitable mitigation (e.g., resource surveys); and

(F) Are necessary to minimize impacts to a significant resource (e.g., wild and scenic river, anadromous fish, endangered species, caribou migration routes).

(ii) Studies may be conducted after a license or exemption is issued if the studies:

(A) Can be conducted only after the project is operating (e.g., turbine-related fish mortality studies);

(B) Would determine the success of mitigative measures (e.g., post-construction monitoring studies); and

(C) Would be used to refine project operation or modify project facilities.

(iii) A potential applicant must provide each agency with a copy of its draft application, the results of all studies and a written request for review and comment. The draft application must clearly indicate the type of application the applicant expects to file with the Commission.

(iv) From the date that an agency receives the applicant's draft application, an applicant must allow each agency the following lengths of time to comment on the draft application before filing the application with the Commission:

(A) Thirty days for an application to be filed under §§ 4.60 and 4.61(d)(2), 4.70 and 4.71, 4.90 through 4.94, 4.101 through 4.107, or 4.200 and 4.201(b)(2), (3) and (4); and

(B) Sixty days for an application to be filed under §§ 4.40 and 4.41, 4.50 and 4.51, 4.60 and 4.61(d)(1), or 4.200 and 4.201(b)(1) and (5). A potential applicant must also provide each agency with a copy of reports discussing the results of any studies performed after the initial stage of consultation and, to the extent possible, must respond in the draft application to any comments and recommendations made by agencies during the initial stage of consultation.

(3) *Third stage of consultation.* When an applicant files an application with the Commission for an exemption, minor license, or major license less than 5 MW, it must serve a copy of its application on each of the agencies consulted. An applicant for a major license for 5 MW or more must provide applications to the agencies after receiving notification by the Commission that the application has been accepted. When an applicant revises, supplements, or amends an application on file with the Commission, or corrects deficiencies in its application pursuant to § 4.32(e)(1), the applicant must serve a copy of the revision, supplement, or amendment upon each consulted agency upon which it had served a copy of the original application.

(c) An applicant must document to the Commission in Exhibit E of its application that the requirements of all three stages of the consultation process have been fully satisfied and must include:

(1) Any agency letters containing comments, recommendations, and proposed terms and conditions; and

(2) With regard to certification requirements for license applicants under section 401 of the Federal Water Pollution Control Act (Clean Water Act), the following:

(i) A copy of the water quality certification, or

(ii) A copy of the request for certification, including proof of the date that the certifying agency received the request in accordance with applicable law governing filings with that agency.

(d) If an agency fails to comment in writing within the prescribed time period or fails to otherwise consult, an applicant made describe *in detail* in Exhibit E of its application all attempts to consult with that agency, the results of any partial consultations that did occur, and any recommendations that the agency did make.

(e)(1) If all the appropriate agencies waive compliance with any requirement of this section, or are deemed by the Commission to have waived compliance under this section, the applicant may omit compliance with that requirement. Except for waiver of water quality certification under paragraph (e)(2) of this section, the applicant must describe in Exhibit E of its application the circumstances of any waiver under this section.

(2) A certifying agency is deemed to have waived the certification requirements of section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act) if the certifying agency has not denied or granted certification by one year after the date the certifying agency received the request for certification.

(3) Any material amendment to plans of development proposed in an application for license, as defined under § 4.35(b), must be considered to require a new request for certification for the purposes of paragraph (2).

(f) An applicant must identify and explain in the application how and why the project would, or would not, comply with the relevant comprehensive state and regional water resource development plans and programs (e.g., the Columbia Basin Fish and Wildlife Program and the Northwest Power Planning Council Regional Energy Plan). If the project would not comply, the applicant must explain why the project should be allowed to not comply with these plans and programs.

[Order 413, 50 FR 11683, Mar. 25, 1985, as amended by Order 464, 52 FR 5449, Feb. 23, 1987; Order 487, 52 FR 48404, Dec. 22, 1987; Order 499, 53 FR 27002, July 18, 1988; Order 499-A, 53 FR 40724, Oct. 18, 1988]

§ 4.39 Specifications for maps and drawings.

All required maps and drawings must conform to the following specifications, except as otherwise prescribed in this chapter:

(a) Each original map or drawing must consist of a print on silver or gelatin 35mm microfilm mounted on Type D (3¼" by 7⅜") aperture cards. Two duplicates must be made of each original. Full-sized prints of maps and drawings must be on sheets no smaller than 24 by 36 inches and no larger than 28 by 40 inches. A space five inches high by seven inches wide must be provided in the lower right corner of each sheet. The upper half of this space must bear the title, numerical and graphical scale, and other pertinent information concerning the map or drawing. The lower half of the space must be left clear. If the drawing size specified in this paragraph limits the scale of drawings described in paragraph (c) of this section, a smaller scale may be used for those drawings.

(b) Each map must have a scale in full-sized prints no smaller than one inch equals 0.5 miles for transmission lines, roads, and similar linear features and no smaller than one inch equals 1,000 feet for other project features. Where maps at these scales do not show sufficient detail, larger scale maps may be required under § 4.31(f). Each map must show:

(1) True and magnetic meridians;

(2) State, county, and town lines; and

(3) Boundaries of public lands and reservations of the United States [see 16 U.S.C. 796 (1) and (2)], if any. If a public land survey is available, the maps must show all lines of that survey crossing the project area and all official subdivisions of sections for the public lands and reservations, including lots and irregular tracts, as designated on the official plats of survey that may be obtained from the Bureau of Land Management, Washington, D.C., or examined in the local land survey office; to the extent that a public land survey is not available for public lands and reservations of the United States, the maps must show the protractions of townships and section lines, which, if possible, must be those recognized by the Federal agency administering those lands.

(c) Drawings depicting details of project structures must have a scale in full-sized prints no smaller than:

(1) One inch equals 50 feet for plans, elevations, and profiles; and

(2) One inch equals 10 feet for sections.

(d) Each map or drawing must be drawn and lettered to be legible when it is reduced to a print that is 11 inches on its shorter side. Following notification to the applicant that the application has been accepted for filing [see § 4.31(c)], prints reduced to that size must be bound in each copy of the application which is required to be submitted to the Commission or provided to any person, agency, or other entity.

[Order 54, 44 FR 61334, Oct. 25, 1979. Redesignated by Order 413, 50 FR 11678, Mar. 25, 1985]

Subpart E—Application for License for Major Unconstructed Project and Major Modified Project

§ 4.40 Applicability.

(a) *Applicability.* The provisions of this subpart apply to any application for an initial license for a major unconstructed project that would have a total installed capacity of more than 5 megawatts, and any application for an initial or new license for a major modified project with a total installed capacity more than 5 megawatts. An applicant for license for any major unconstructed or major modified water power project that would have a total installed generating capacity of 5 megawatts or less must submit application under Subpart G (§§ 4.60 and 4.61).

(b) *Guidance from Commission staff.* A prospective applicant for a license for a major unconstructed project or major modified project may seek advice from the Commission's Division of Hydropower Licensing regarding the applicability of this subpart to its project [*see* § 4.32(h)], including the determinations whether any proposed repair, modification or reconstruction of an existing dam would result in a significant change in the normal maximum surface elevation of an existing impoundment, or whether any proposed change in existing project works or operation would result in a significant environmental impact.

[Order 184, 46 FR 55936, Nov. 13, 1981, as amended by Order 413, 50 FR 11683, Mar.

25, 1985; Order 499, 53 FR 27002, July 18, 1988]

§ 4.41 Contents of application.

Any application under this subpart must contain the following information in the form prescribed:

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

*Application for License for **Major** Unconstructed Project or **Major** Modified Project*

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a [license or new license, as appropriate] for the [name of project] water power project, as described in the attached exhibits. [Specify any previous FERC project number designation.]

(2) The location of the proposed project is:

State or territory: ______

County: ______

Township or nearby town: ______

Stream or other body of water: ______

(3) The exact name, business address, and telephone number of the applicant are:

______

______

(4) The applicant is a (citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or State, as appropriate) and (is/is not) claiming preference under section 7(a) of the Federal Power Act. *See* 16 U.S.C. 796.

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken, or plans to take, to comply with each of the laws cited above are: [provide brief description for each requirement]

(b) *Exhibit A* is a description of the project. If the project includes more than one dam with associated facilities, each dam and the associated component parts must be described together as a discrete development. The description for each development must contain:

(1) The physical composition, dimensions, and general configuration of any dams, spillways, penstocks, powerhouses, tailraces or other structures proposed to be included as part of the project;

(2) The normal maximum water surface area and normal maximum water surface elevation (mean sea level), gross storage capacity of any impoundments to be included as part of the project;

(3) The number, type and rated capacity of any proposed turbines or generators to be included as part of the project;

(4) The number, length, voltage and interconnections of any primary transmission lines proposed to be included a part of the project [*See* 16 U.S.C. 796(11)];

(5) The description of any additional mechanical, electrical, and transmission equipment appurtenant to the project; and

(6) All lands of the United States, including lands patented subject to the provisions of section 24 of the Act, 16 U.S.C. 818, that are enclosed within the project boundary described under paragraph (h) of this section (Exhibit G), identified and tabulated by legal subdivisions of a public land survey, by the best available legal description. The tabulation must show the total acreage of the lands of the United States within the project boundary.

(c) *Exhibit B* is a statement of project operation and resource utilization. If the project includes more than one dam with associated facilities, the information must be provided separately for each discrete development. The exhibit must contain:

(1) A description of each alternative site considered in selecting of the proposed site;

(2) A description of any alternative facility designs, processes, and operations that were considered.

(3) A statement as to whether operation of the power plant will be manual or automatic, an estimate of

the annual plant factor, and a statement of how the project will be operated during adverse, mean, and high water years;

(4) An estimate of the dependable capacity and average annual energy production in kilowatt-hours (or mechanical equivalent), supported by the following data:

(i) The minimum, mean, and maximum recorded flows in cubic feet per second of the stream or other body of water at the powerplant intake or point of diversion, with a specification of any adjustment made for evaporation, leakage minimum flow releases (including duration of releases) or other reductions in available flow; a flow duration curve indicating the period of record and the gauging stations used in deriving the curve; and a specification of the critical streamflow used to determine the dependable capacity;

(ii) An area-capacity curve showing the gross storage capacity and usable storage capacity of the impoundment, with a rule curve showing the proposed operation of the impoundment and how the usable storage capacity is to be utilized;

(iii) The estimated hydraulic capacity of the powerplant in terms of flow and efficiency (cubic feet per second at one-half, full and best gate), and the corresponding generator output in kilowatts;

(iv) A tailwater rating curve; and

(v) A curve showing powerplant capability versus head and specifying maximum, normal, and minimum heads;

(5) A statement of system and regional power needs and the manner in which the power generated at the project is to be utilized, including the amount of power to be used on-site, if any, supported by the following data:

(i) Load curves and tabular data, if appropriate;

(ii) Details of conservation and rate design programs and their historic and projected impacts on system loads; and

(iii) The amount of power to be sold and the identity of proposed purchaser(s); and

(6) A statement of the applicant's plans for future development of the project or of any other existing or proposed water power project on the affected stream or other body of water, indicating the approximate location and estimated installed capacity of the proposed developments.

(d) *Exhibit C* is a proposed construction schedule for the project. The information required may be supplemented with a bar chart. The construction schedule must contain:

(1) The proposed commencement and completion dates of any new construction, modification, or repair of major project works;

(2) The proposed commencement date of first commercial operation of each new major facility and generating unit; and

(3) If any portion of the proposed project consists of previously constructed, unlicensed water power structures or facilities, a chronology of original completion dates of those structures or facilities specifying dates (approximate dates must be identified as such) of:

(i) Commencement and completion of construction or installation;

(ii) Commencement of first commercial operation; and

(iii) Any additions or modifications other than routine maintenance.

(e) *Exhibit D* is a statement of project costs and financing. The exhibit must contain:

(1) A statement of estimated costs of any new construction, modification, or repair, including:

(i) The cost of any land or water rights necessary to the development;

(ii) The total cost of all major project works;

(iii) Indirect construction costs such as costs of construction equipment, camps, and commissaries;

(iv) Interest during construction; and

(v) Overhead, construction, legal expenses, and contingencies;

(2) If any portion of the proposed project consists of previously constructed, unlicensed water power structures or facilities, a statement of the original cost of those structures or facilities specifying for each, to the extent possible, the actual or approximate total costs (approximate costs must be identified as such) of:

(i) Any land or water rights necessary to the existing project works;

(ii) All major project works; and

(iii) Any additions or modifications other than routine maintenance;

(3) If the applicant is a licensee applying for a new license, and is not a municipality or a state, an estimate of the amount which would be payable if the project were to be taken over pursuant to section 14 of the Federal Power Act, 16 U.S.C. 807, upon expiration of the license in effect including:

(i) Fair value;

(ii) Net investment; and

(iii) Severance damages;

(4) A statement of the estimated average annual cost of the total project as proposed, specifying any projected changes in the costs (life-cycle costs) over the estimated financing or licensing period if the applicant takes such changes into account, including:

(i) Cost of capital (equity and debt);

(ii) Local, state, and Federal taxes;

(iii) Depreciation or amortization, and

(iv) Operation and maintenance expenses, including interim replacements, insurance, administrative and general expenses, and contingencies;

(5) A statement of the estimated annual value of project power based on a showing of the contract price for sale of power or the estimated average annual cost of obtaining an equivalent amount of power (capacity and energy) from the lowest cost alternative source of power, specifying any projected changes in the costs (life-cycle costs) of power from that source over the estimated financing or licensing period if the applicant takes such changes into account;

(6) A statement describing other electric energy alternatives, such as gas, oil, coal and nuclear-fueled powerplants and other conventional and pumped storage hydroelectric plants;

(7) A statement and evaluation of the consequences of denial of the license application and a brief perspective of what future use would be made of the proposed site if the proposed project were not constructed; and

(8) A statement specifying the sources and extent of financing and annual revenues available to the applicant to meet the costs identified in paragraphs (e) (1) and (4) of this section.

(f) *Exhibit E* is an Environmental Report. Information provided in the report must be organized and referenced according to the itemized subparagraphs below. *See* § 4.38 for consultation requirements. The Environmental Report must contain the following information, *commensurate with the scope of the project*:

(1) *General description of the locale.* The applicant must provide a general description of the environment of the proposed project area and its immediate vicinity. The description must include location and general information helpful to an understanding of the environmental setting.

(2) *Report on water use and quality.* The report must discuss water quality and flows and contain baseline data sufficient to determine the normal and seasonal variability, the impacts expected during construction and operation, and any mitigative, enhancement, and protective measures proposed by the applicant. The report must be prepared in consultation with the state and Federal agencies with responsibility for management of water quality and quantity in the affected stream or other body of water. The report must include:

(i) A description of existing instream flow uses of streams in the project area that would be affected by construction and operation; estimated quantities of water discharged from the proposed project for power production; and any existing and proposed uses of project waters for irrigation, domestic water supply, industrial and other purposes;

(ii) A description of the seasonal variation of existing water quality for any stream, lake, or reservoir that would be affected by the proposed project, including (as appropriate) measurements of: significant ions, chlorophyll *a*, nutrients, specific conductance, pH, total dissolved solids, total alkalinity, total hardness, dissolved oxygen, bacteria, temperature, suspended sediments, turbidity and vertical illumination;

(iii) A description of any existing lake or reservoir and any of the proposed project reservoirs including surface area, volume, maximum depth, mean depth, flushing rate, shoreline length, substrate classification, and gradient for streams directly affected by the proposed project;

(iv) A quantification of the anticipated impacts of the proposed construction and operation of project facilities on water quality and downstream flows, such as temperature, turbidity and nutrients;

(v) A description of measures recommended by Federal and state agencies and the applicant for the purpose of protecting or improving water quality and stream flows during project construction and operation; an explanation of why the applicant has rejected any measures recommended by an agency; and a description of the applicant's alternative measures to protect or improve water quality stream flow;

(vi) A description of groundwater in the vicinity of the proposed project, including water table and artesian conditions, the hydraulic gradient, the degree to which groundwater and surface water are hydraulically connected, aquifers and their use as water supply, and the location of springs, wells, artesian flows and disappearing streams; a description of anticipated impacts on groundwater and measures proposed by the applicant and others for the mitigation of impacts on groundwater; and

(3) *Report on fish, wildlife, and botanical resources.* The applicant must provide a report that describes the fish, wildlife, and botanical resources in the vicinity of the proposed project; expected impacts of the project on these resources; and mitigation, enhancement, or protection measures proposed by the applicant. The report must be prepared in consultation with the state agency or agencies with responsibility for these resources, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (if the proposed project may affect anadromous, estuarine, or marine fish resources), and any state or Federal agency with managerial authority over any part of the proposed project lands. The report must contain:

(i) A description of existing fish, wildlife, and plant communities of the proposed project area and its vicinity, including any downstream areas that may be affected by the proposed project and the area within the transmission line corridor or right-of-way. A map of vegetation types should be included in the description. For species considered important because of their commercial or recreational value, the information provided should include temporal and spatial distributions and densities of such species. Any fish, wildlife, or plant species proposed or listed as threatened or endangered by the U.S. Fish and Wildlife Service or National Marine Fisheries Service [*see* 50 CFR 17.11 and 17.12] must be identified;

(ii) A description of the anticipated impacts on fish, wildlife and botanical resources of the proposed construction and operation of project facilities, including possible changes in size, distribution, and reproduction of essential population of these resources and any impacts on human utilization of these resources;

(iii) A description of any measures or facilities recommended by state or Federal agencies for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or enhancement of these resources, the impact on threatened or endangered species, and an explanation of why the applicant has determined any measures or facilities recommended by an agency are inappropriate as well as a description of alternative measures proposed by applicant to protect fish, wildlife and botanical resources; and

(iv) The following materials and information regarding any mitigation measures or facilities, identified under clause (iii), proposed for implementation or construction:

(A) Functional design drawings;

(B) A description of proposed operation and maintenance procedures for any proposed measures or facilities;

(C) An implementation, construction and operation schedule for any proposed measures or facilities;

(D) An estimate of the costs of construction, operation, and maintenance of any proposed facilities or implementation of any measures;

(E) A statement of the sources and amount of financing for mitigation measures or facilities; and

(F) A map or drawing showing, by the use of shading, crosshatching or other symbols, the identity and location of any proposed measures or facilities.

(4) *Report on historic and archaeological resources.* The applicant must provide a report that discusses any historical and archaeological resources in the proposed project area, the impact of the proposed project on those resources and the avoidance, mitigation, and protection measures proposed by the applicant. The report must be prepared in consultation with the State Historic Preservation Officer (SHPO) and the National Park Service of the U.S. Department of Interior. The report must contain:

(i) A description of any discovery measures, such as surveys, inventories, and limited subsurface testing work, recommended by the specified state and Federal agencies for the purpose of locating, identifying, and assessing the significance of historic and archaeological resources that would be affected by construction and operation of the proposed project, together with a statement of the applicant's position regarding the acceptability of the recommendations;

(ii) The results of surveys, inventories, and subsurface testing work recommended by the state and Federal agencies listed above, together with an explanation by the applicant of any variations from the survey, inventory, or testing procedures recommended;

(iii) An identification (without providing specific site or property locations) of any historic or archaeological site in the proposed project area, with particular emphasis on sites or properties either listed in, or recommended by the SHPO for inclusion in, the National Register of Historic Places that would be affected by the construction of the proposed project;

(iv) A description of the likely direct and indirect impacts of proposed project construction or operation on sites or properties either listed in, or recommended as eligible for, the National Register of Historic Places;

(v) A management plan for the avoidance of, or mitigation of, impacts on historic or archaeological sites and resources based upon the recommendations of the state and Federal agencies listed above and containing the applicant's explanation of variations from those recommendations; and

(vi) The following materials and information regarding the mitigation measures described under paragraph (f)(4)(v) of this section:

(A) A schedule for implementing the mitigation proposals;

(B) An estimate of the cost of the measures; and

(C) A statement of the sources and extent of financing.

(vii) The applicant must provide five copies (rather than the fourteen copies required under § 4.32(b)(1) of the Commission's regulations) of any survey, inventory, or subsurface testing reports containing specific site and property information, and including maps and photographs showing the location and any required alteration of historic and archaeological resources in relation to proposed project facilities.

(5) *Report on socio-economic impacts.* The applicant must provide a report which identifies and quantifies the impacts of constructing and operating the proposed project on employment, population, housing, personal income, local governmental services, local tax revenues and other factors within the towns and counties in the vicinity of the proposed project. The report must include:

(i) A description of the socio-economic impact area;

(ii) A description of employment, population and personal income trends in the impact area;

(iii) An evaluation of the impact of any substantial in-migration of people on the impact area's governmental facilities and services, such as police, fire, health and educational facilities and programs;

(iv) On-site manpower requirements and payroll during and after project construction, including a projection of total on-site employment and construction payroll provided by month;

(v) Numbers of project construction personnel who:

(A) Currently reside within the impact area;

(B) Would commute daily to the construction site from places situated outside the impact area; and

(C) Would relocate on a temporary basis within the impact area;

(vi) A determination of whether the existing supply of available housing within the impact area is sufficient to meet the needs of the additional population;

(vii) Numbers and types of residences and business establishments that would be displaced by the proposed project, procedures to be utilized to acquire these properties, and types and amounts of relocation assistance payments that would be paid to the affected property owners and businesses; and

(viii) A fiscal impact analysis evaluating the incremental local government expenditures in relation to the incremental local government revenues that would result from the construction of the proposed project. Incremental expenditures may include, but are not be limited to, school operating costs, road maintenance and repair, public safety, and public utility costs.

(6) *Report on geological and soil resources.* The applicant must provide a report on the geological and soil resources in the proposed project area and other lands that would be directly or indirectly affected by the proposed action and the impacts of the proposed project on those resources. The information required may be supplemented with maps showing the location and description of conditions. The report must contain:

(i) A detailed description of geological features, including bedrock lithology, stratigraphy, structural features, glacial features, unconsolidated deposits, and mineral resources;

(ii) A detailed description of the soils, including the types, occurrence, physical and chemical characteristics, erodability and potential for mass soil movement;

(iii) A description showing the location of existing and potential geological and soil hazards and problems, including earthquakes, faults, seepage, subsidence, solution cavities, active and abandoned mines, erosion, and mass soil movement, and an identificaiton of any large landslides or potentially unstable soil masses which could be aggravated by reservior fluctuation;

(iv) A description of the anticipated erosion, mass soil movement and other impacts on the geological and soil resources due to construction and operation of the proposed project; and

(v) A description of any proposed measures of facilities for the mitigtion of impacts on soils.

(7) *Report on recreational resources.* The applicant must prepare a report containing a proposed recreation plan describing utilization, design and development of project recreational facilities, and public access to the project area. Development of the plan should include consideration of the needs of the physically handicapped. Public and private recreational facilities provided by others that would abut the project should be noted in the report. The report must be prepared in consultation with appropriate local, regional, state and Federal recreation agencies and planning commissions, the National Park Service of the U.S. Department of the Interior, and any other state or Federal agency with managerial responsibility for any part of the project lands. The report must contain:

(i) A description of any areas within or in the vicinity of the proposed project boundary that are included in, or have been designated for study for inclusion in:

(A) The National Wild and Scenic Rivers Systems (*see* 16 U.S.C. 1271);

(B) The National Trails System (*see* 16 U.S.C. 1241); or

(C) A wilderness area designated under the Wilderness Act (*see* 16 U.S.C. 1132);

(ii) A detailed description of existing recreational facilities within the project vicinity, and the public recreational facilities which are to be provided by the applicant at its sole cost or in cooperation with others no later than 3 years from the date of first commercial opertion of the proposed project and those recreation facilities planned for future development based on anticipated demand. When public recreation facilities are to be provided by other entities, the applicant and those entities should enter into an agreement on the type of facilities to be provided and the method of operation. Copies of agreements with cooperating entities are to be appended to the plan;

(iii) A provision for a shoreline buffer zone that must be within the project boundary, above the normal maximum surface elevation of the project reservoir, and of sufficient width to allow public access to project lands and waters and to protect the scenic, public recreational, cultural, and other environmental values of the reseroir shoreline;

(iv) Estimates of existing and future recreational use at the project, in daytime and overnight visitation (recreation days), with a description of the methodology used in developing these data;

(v) A development schedule and cost estimates of the construction, operation, and maintenance of existing, initial, and future public recreational facilities, including a statement of the source and extent of financing for such facilities;

(vi) A description of any measures or facilities recommended by the agencies consulted for the purpose of creating, preserving, or enhancing recreational opportunities at the proposed project, and for the purpose of ensuring the safety of the public in its use of project lands and waters, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency; and

(vii) A drawing or drawings, one of which describes the entire project area, clearly showing:

(A) The location of project lands, and the types and number of existing recreational facilities and those proposed for initial development, including access roads and trails, and facilities for camping, picnicking, swimming, boat docking and launching, fishing and hunting, as well as provisions for sanitation and waste disposal;

(B) The location of project lands, and the type and number of recreational facilities planned for future development;

(C) The location of all project lands reserved for recreational uses other than those included in paragraphs (f)(7)(vii) (A) and (B) of this section; and

(D) The project boundary (excluding surveying details) of all areas designated for recreational development, sufficiently referenced to the appropriate Exhibit G drawings to show that all lands reserved for existing and future public recreational development and the shoreline buffer zone are included within the project boundary. Recreational cottages, mobile homes and year-round residences for private use are not to be considered as public recreational facilities, and the lands on which these private facilities are to be developed are not to be included within the proposed project boundary.

(8) *Report on aesthetic resources.* The applicant must provide a report that describes the aesthetic resources of the proposed project area, the expected impacts of the project on these resources, and the mitigation, enhancement or protection measures proposed. The report must be prepared following consultation with Federal, state, and local agencies having managerial responsibility for any part of the proposed project lands or lands abutting those lands. The report must contain:

(i) A description of the aesthetic character of lands and waters directly and indirectly affected by the proposed project facilities;

(ii) A description of the anticipated impacts on aesthetic resources from construction activity and related equipment and material, and the subsequent presence of proposed project facilities in the landscape;

(iii) A description of mitigative measures proposed by the applicant, including architectural design, landscaping, and other reasonable treatment to be given project works to preserve and enhance aesthetic and related resources during construction and operation of proposed project facilities; and

(iv) Maps, drawings and photographs sufficient to provide an understanding of the information required under this paragraph. Maps or drawings may be consolidated with other maps or drawings required in this exhibit and must conform to the specifications of § 4.39.

(9) *Report on land use.* The applicant must provide a report that describes the existing uses of the proposed project lands and adjacent property, and those land uses which would occur if the project is constructed. The report may reference the discussions of land uses in other sections of this exhibit. The report must be prepared following consultation with local and state zoning or land management authorities, and any Federal or state agency with managerial responsibility for the proposed project or abutting lands. The report must include:

(i) A description of existing land use in the proposed project area, including identification of wetlands, floodlands, prime or unique farmland as designated by the Soil Conservation Service of the U.S. Department of Agriculture, the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or subject to control by government agencies;

(ii) A description of the proposed land uses within and abutting the project boundary that would occur as a result of development and operation of the project; and

(iii) Aerial photographs, maps, drawings or other graphics sufficient to show the location, extent and nature of the land uses referred to in this section.

(10) *Alternative locations, designs, and energy sources.* The applicant must provide an environment assessment of the following:

(i) Alternative sites considered in arriving at the selection of the proposed project site;

(ii) Alternative facility designs, processes, and operations that were considered and the reasons for their rejection;

(iii) Alternative electrical energy sources, such as gas, oil, coal, and nuclear-fueled power plants, purchased power or diversity exchange, and other conventional and pumped-storage hydroelectric plants; and

(iv) The overall consequences if the license application is denied.

(11) *List of literature.* Exhibit E must include a list of all publications, reports, and other literature which were cited or otherwise utilized in the preparation of any part of the environmental report.

(g) *Exhibit F* consists of general design drawings of the principal project works described under paragraph (b) of this section (Exhibit A) and supporting information used as the basis of design. If the Exhibit F submitted with the application is preliminary in nature, applicant must so state in the application. The drawings must conform to the specifications of § 4.39.

(1) The drawings must show all major project structures in sufficient detail to provide a full understanding of the project, including:

(i) Plans (overhead view);

(ii) Elevations (front view);

(iii) Profiles (side view); and

(iv) Sections.

(2) The applicant may submit preliminary design drawings with the application. The final Exhibit F may be submitted during or after the licensing process and must show the precise plans and specifications for proposed structures. If the project is licensed on the basis of preliminary designs, the applicant must submit a final Exhibit F for Commission approval prior to commencement of any construction of the project.

(3) *Supporting design report.* The applicant must furnish, at a minimum, the following supporting information to demonstrate that existing and proposed structures are safe and adequate to fulfill their stated functions and must submit such information in a separate report at the time the application is filed. The report must include:

(i) An assessment of the suitability of the site and the reservoir rim stability based on geological and subsurface investigations, including investigations of soils and rock borings and tests for the evaluation of all foundations and construction materials sufficient to determine the location and type of dam structure suitable for the site;

(ii) Copies of boring logs, geology reports and laboratory test reports;

(iii) An identification of all borrow areas and quarry sites and an estimate of required quantities of suitable construction material;

(iv) Stability and stress analyses for all major structures and critical abutment slopes under all probable loading conditions, including seismic and hydrostatic forces induced by water loads up to the Probable Maximum Flood as appropriate; and

(v) The bases for determination of seismic loading and the Spillway Design Flood in sufficient detail to permit independent staff evaluation.

(4) The applicant must submit five copies (not fourteen copies as required under § 4.31(b) of this part) of the supporting design report described in paragraph (g)(3) of this section at the time preliminary and final design drawings are submitted to the Commission for review. If the report contains preliminary drawings, it must be designated a "Preliminary Supporting Design Report."

(h) *Exhibit G* is a map of the project that must conform to the specifications of § 4.39. If more than one sheet is used, the sheets must be numbered consecutively, and each sheet must bear a small insert sketch showing the entire project and indicating that portion of the project depicted on that sheet. If at any time after the application is filed there is any change in the project boundary, the applicant must submit, within a reasonable period following the completion of project construction, a final Exhibit G showing the extent of such changes. The map must show:

(1) *Location of the project and principal features.* The map must show the location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any other permanent monuments or objects, such as roads, transmission lines or other structures, that can be noted on the map and recognized in the field. The map must also show the relative locations and physical interrelationships of the principal project works and other features described under paragraph (b) of this section (Exhibit A).

(2) *Project boundary.* The map must show a project boundary enclosing all project works and other features described under paragraph (b) of this section (Exhibit A) that are to be licensed. If accurate survey information is not available at the time the license application is filed, the applicant must so state, and a tentative boundary may be submitted. The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources (*see* paragraph (f) of this section (Exhibit E)). Existing residential, commercial, or other structures may be included within the boundary only to the extent that underlying lands are needed for project purposes (e.g., for flowage, public recreation, shoreline control, or protection of environmental resources). If the boundary is on land covered by a public survey, ties must be shown on the map at sufficient points to permit accurate platting of the position of the boundary relative to the lines of the public land survey. If the lands are not covered by a public land survey, the best available legal description of the position of the boundary must be provided, including distances and directions from fixed monuments or physical features. The boundary must be described as follows:

(i) *Impoundments.* (A) The boundary around a project impoundment must be described by one of the following:

(*1*) Contour lines, including the contour elevation (preferred method);

(*2*) Specified courses and distances (metes and bounds);

(*3*) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(*4*) Any combination of the above methods.

(B) The boundary must be located no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the above methods or where additional lands are necessary for project purposes, such as public recreation, shoreline control, or protection of environmental resources.

(ii) *Continuous features.* The boundary around linear ("continuous") project features such as access roads, transmission lines, and conduits may be described by specified distances from center lines or offset lines of survey. The width of such corridors must not exceed 200 feet unless good cause is shown for a greater width. Several sections of a continuous feature may be shown on a single sheet with information showing the sequence of contiguous sections.

(iii) *Noncontinuous features.* (A) The boundary around noncontinuous project works such as dams, spillways, and powerhouses must be described by one of the following:

(*1*) Contour lines;

(*2*) Specified courses and distances;

(*3*) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(*4*) Any combination of the above methods.

(B) The boundary must enclose only those lands that are necessary for safe and efficient operation and maintenance of the project or for other specified project purposes, such as public recreation or protection of environmental resources.

(3) *Federal lands.* Any public lands and reservations of the United States ("Federal lands") [*see* 16 U.S.C. 796 (1) and (2)] that are within the project boundary, such as lands administered by the U.S. Forest Service, Bureau of Land Management, or National Park Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified as such on the map by:

(i) Legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose); and

(ii) The Federal agency, identified by symbol or legend, that maintains or manages each identified subdivision of the public land survey within the project boundary; or

(iii) In the absence of a public land survey, the location of the Federal lands according to the distances and directions from fixed monuments or physical features. When a Federal survey monument or a Federal bench mark will be destroyed or rendered unusable by the construction of project works, at least two permanent, marked witness monuments or bench marks must be established at accessible points. The maps show the location (and elevation, for bench marks) of the survey monument or bench mark which will be destroyed or rendered unusable, as well as of the witness monuments or bench marks. Connecting courses and distances from the witness monuments or bench marks to the original must also be shown.

(4) *Non-Federal lands.* For those lands within the project boundary not identified under paragraph (h)(3) of this section, the map must identify by legal subdivision:

(i) Lands owned in fee by the applicant and lands that the applicant plans to acquire in fee; and

(ii) Lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired to be required by easement or lease.

[Order 184, 46 FR 55936, Nov. 13, 1981; 48 FR 4459, Feb. 1, 1983, as amended by Order 413, 50 FR 11684, Mar. 25, 1985 ;Order 464, 52 FR 5449, Feb. 23, 1987]

Subpart F—Application for License for Major Project—Existing Dam

AUTHORITY: Federal Power Act, as amended (16 U.S.C. 792-828c); Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601-2645); Department of Energy Organization Act (42 U.S.C. 7101-7352); E.O. 12009, 42 FR 46267; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

Source: Order 59, 44 FR 67651 Nov. 27, 1979, unless otherwise noted.

§ 4.50 Applicability.

(a) *Applicability.* (1) Except as provided in paragraph (a)(2) of this section, the provisions of this subpart apply to any application for either an initial license or new license for a major project—existing dam that is proposed to have a total installed capacity of more than 5 megawatts.

(2) This subpart does not apply to any major project—existing dam (*see* § 4.40) that is proposed to entail or include:

(i) Any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment; or

(ii) Any new development or change in project operation that would result in a significant environmental impact.

(3) An applicant for license for any major project—existing dam that would have a total installed capacity of 5 megawatts or less must submit application under Subpart G (§§ 4.60 and 4.61).

(b) *Guidance from Commission staff.* A prospective applicant for a major license—existing dam may seek advice from the Commission staff regarding the applicability of these sections to its project (*see* § 4.32(h)), including the determinations whether any proposed repair or reconstruction of an existing dam would result in a significant change in the normal maximum surface area or the normal maximum surface elevation of an existing impoundment, or whether any proposed new development or change in project operation would result in a significant environmental impact.

[Order 59, 44 FR 67651, Nov. 27, 1979, as amended by Order 184, 46 FR 55942, Nov. 13, 1981; Order 413, 50 FR 11684, Mar. 25, 1985; Order 499, 53 FR 27002, July 18, 1988]

§ 4.51 Contents of application.

An application for license under this subpart must contain the following information in the form specified. As provided in paragraph (f) of this section, the appropriate Federal, state, and local resource agencies must be given the opportunity to comment on the proposed project, prior to filing of the application for license for major project—existing dam. Information from the consultation process must be included in this Exhibit E, as appropriate.

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for License for Major Project—Existing Dam

(1) (Name of applicant) applies to the Federal Energy Regulatory Commission for a (license or new license, as appropriate) for the (name of project) water power project, as described in the attached exhibits. (Specify any previous FERC project number designation.)

(2) The location of the project is:

State or territory: ____________
County: ____________
Township or nearby town: ____________
Stream or other body of water: ____________

(3) The exact name and business address of the applicant are:

____
____
____

The exact name and business address of each person authorized to act as agent for the applicant in this application are:

____
____
____

(4) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate] and (is/is not) claiming preference under section 7(a) of the Federal Power Act. *See* 16 U.S.C. 796.

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed, with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [Provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state and local laws or a municipal charter, or, if such laws or documents are not clear, other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: (provide brief description for each law).

(6) The applicant must provide the name and address of the owner of any existing project facilities. If the dam is federally owned or operated, provide the name of the agency.

(b) *Exhibit A* is a description of the project. This exhibit need not include information on project works maintained and operated by the U.S. Army Corps of Engineers, the Bureau of Reclamation, or any other department or agency of the United States, except for any project works that are proposed to be altered or modified. If the project includes more than one dam with associated facilities, each dam and the associated component parts must be described together as a discrete development. The description for each development must contain:

(1) The physical composition, dimensions, and general configuration of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, whether existing or proposed, to be included as part of the project;

(2) The normal maximum surface area and normal maximum surface elevation (mean sea level), gross storage capacity, and usable storage capacity of any impoundments to be included as part of the project;

(3) The number, type, and rated capacity of any turbines or generators, whether existing or proposed, to be included as part of the project;

(4) The number, length, voltage, and interconnections of any primary transmission lines, whether existing or proposed, to be included as part of the project (see 16 U.S.C. 796(11));

(5) The specifications of any additional mechanical, electrical, and transmission equipment appurtenant to the project; and

(6) All lands of the United States that are enclosed within the project boundary described under paragraph (h) of this section (Exhibit G), identified and tabulated by legal subdivisions of a public land survey of the affected area or, in the absence of a public land survey, by the best available legal description. The tabulation must show the total acreage of the lands of the United States within the project boundary.

(c) *Exhibit B* is a statement of project operation and resource utilization. If the project includes more than one dam with associated facilities, the information must be provided separately for each such discrete development. The exhibit must contain:

(1) A statement whether operation of the powerplant will be manual or automatic, an estimate of the annual plant factor, and a statement of how the project will be operated during adverse, mean, and high water years;

(2) An estimate of the dependable capacity and average annual energy production in kilowatt-hours (or a mechanical equivalent), supported by the following data:

(i) The minimum, mean, and maximum recorded flows in cubic feet per second of the stream or other body of water at the powerplant intake or point of diversion, with a specification of any adjustments made for evaporation, leakage, minimum flow releases (including duration of releases), or other reductions in available flow; a flow duration curve indicating the period of record and the gauging stations used in deriving the curve; and a specification of the period of critical streamflow used to determine the dependable capacity;

(ii) An area-capacity curve showing the gross storage capacity and usable storage capacity of the impoundment, with a rule curve showing the proposed operation of the impoundment and how the usable storage capacity is to be utilized;

(iii) The estimated hydraulic capacity of the powerplant (maximum flow through the powerplant) in cubic feet per second;

(iv) A tailwater rating curve; and

(v) A curve showing powerplant capability versus head and specifying maximum, normal, and minimum heads;

(3) A statement, with load curves and tabular data, if necessary, of the manner in which the power generated at the project is to be utilized, including the amount of power to be used on-site, if any, the amount of power to be sold, and the identity of any proposed purchasers; and

(4) A statement of the applicant's plans, if any, for future development of the project or of any other existing or proposed water power project on the stream or other body of water, indicating the approximate location and estimated installed capacity of the proposed developments.

(d) *Exhibit C* is a construction history and proposed construction schedule for the project. The construction history and schedules must contain:

(1) If the application is for an initial license, a tabulated chronology of construction for the existing projects structures and facilities described under paragraph (b) of this section (Exhibit A), specifying for each structure or facility, to the extent possible, the actual or approximate dates (ap-

proximate dates must be identified as such) of:

(i) Commencement and completion of construction or installation;

(ii) Commencement of commercial operation; and

(iii) Any additions or modifications other than routine maintenance; and

(2) If any new development is proposed, a proposed schedule describing the necessary work and specifying the intervals following issuance of a license when the work would be commenced and completed.

(e) *Exhibit D* is a statement of costs and financing. The statement must contain:

(1) If the application is for an initial license, a tabulated statement providing the actual or approximate original cost (approximate costs must be identified as such) of:

(i) Any land or water right necessary to the existing project; and

(ii) Each existing structure and facility described under paragraph (b) of this section (Exhibit A).

(2) If the applicant is a licensee applying for a new license, and is not a municipality or a state, an estimate of the amount which would be payable if the project were to be taken over pursuant to section 14 of the Federal Power Act upon expiration of the license in effect [*see* 16 U.S.C. 807], including:

(i) Fair value;

(ii) Net investment; and

(iii) Severance damages.

(3) If the application includes proposals for any new development, a statement of estimated costs, including:

(i) The cost of any land or water rights necessary to the new development; and

(ii) The cost of the new development work, with a specification of:

(A) Total cost of each major item;

(B) Indirect construction costs such as costs of construction equipment, camps, and commissaries;

(C) Interest during construction; and

(D) Overhead, construction, legal expenses, taxes, administrative and general expenses, and contingencies.

(4) A statement of the estimated average annual cost of the total project as proposed, specifying any projected changes in the costs over the estimated financing or licensing period if the applicant takes such changes into account, including:

(i) Cost of capital (equity and debt);

(ii) Local, state, and Federal taxes;

(iii) Depreciation or amortization, and

(iv) Operation and maintenance expenses, including interim replacements, insurance, administrative and general expenses, and contingencies.

(5) A statement of the estimated annual value of project power, based on a showing of the contract price for sale of power or the estimated average annual cost of obtaining an equivalent amount of power (capacity and energy) from the lowest cost alternative source, specifying any projected changes in the cost of power from that source over the estimated financing or licensing period if the applicant takes such changes into account.

(6) A statement specifying the sources and extent of financing and annual revenues available to the applicant to meet the costs identified in paragraphs (e) (3) and (4) of this section.

(f) *Exhibit E* is an Environmental Report. Information provided in the report must be organized and referenced according to the itemized subparagraphs below. *See* § 4.38 for consultation requirements. The Environmental Report must contain the following information, *commensurate with the scope of the proposed project:*

(1) *General description of the locale.* The applicant must provide a general description of the environment of the project and its immediate vicinity. The description must include general information concerning climate, topography, wetlands, vegetative cover, land development, population size and density, the presence of any floodplain and the occurrence of flood events in the vicinity of the project, and any other factors important to an understanding of the setting.

(2) *Report on water use and quality.* The report must discuss the consumptive use of project waters and the impact of the project on water quality. The report must be prepared in consultation with the state and Federal agencies with responsibility for man-

agement of water quality in the affected stream or other body of water. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must include:

(i) A description (including specified volume over time) of existing and proposed uses of project waters for irrigation, domestic water supply, steam-electric plant, industrial, and other consumptive purposes;

(ii) A description of existing water quality in the project impoundment and downstream water affected by the project and the applicable water quality standards and stream segment classifications;

(iii) A description of any minimum flow releases specifying the rate of flow in cubic feet per second (cfs) and duration, changes in the design of project works or in project operation, or other measures recommended by the agencies consulted for the purposes of protecting or improving water quality, including measures to minimize the short-term impacts on water quality of any proposed new development of project works (for any dredging or filling, refer to 40 CFR Part 230 and 33 CFR 320.3(f) and 323.3(e))[1];

(iv) A statement of the existing measures to be continued and new measures proposed by the applicant for the purpose of protecting or improving water quality, including an explanation of why the applicant has rejected any measures recommended by an agency and described under paragraph (f)(2)(iii) of this section.

(v) A description of the continuing impact on water quality of continued operation of the project and the incremental impact of proposed new development of project works or changes in project operation; and

(3) *Report on fish, wildlife, and botanical resources.* The report must discuss fish, wildlife, and botanical resources in the vicinity of the project and the impact of the project on those resources. The report must be prepared in consultation with any state agency with responsibility for fish, wildlife, and botanical resources, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (if the project may affect anadromous fish resources subject to that agency's jurisdiction), and any other state or Federal agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must include:

(i) A description of the fish, wildlife, and botanical resources of the project and its vicinity, and of downstream areas affected by the project, including identification of any species listed as threatened or endangered by the U.S. Fish and Wildlife Service (*See* 50 CFR 17.11 and 17.12);

(ii) A description of any measures or facilities recommended by the agencies consulted for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or improvement of those resources;

(iii) A statement of any existing measures or facilities to be continued or maintained and any measures or facilities proposed by the applicant for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or improvement of such resources, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency and described under paragraph (f)(3)(ii) of this section.

(iv) A description of any anticipated continuing impact on fish, wildlife, and botanical resources of continued operation of the project, and the incremental impact of proposed new development of project works or changes in project operation; and

(v) The following materials and information regarding the measures and facilities identified under paragraph (f)(3)(iii) of this section:

(A) Functional design drawings of any fish passage and collection facilities, indicating whether the facilities depicted are existing or proposed (these drawings must conform to the specifications of § 4.39 regarding dimensions of full-sized prints, scale, and legibility);

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[1] 33 CFR Part 323 was revised at 47 FR 31810, July 22, 1982, and § 323.3(e) no longer exists.

(B) A description of operation and maintenance procedures for any existing or proposed measures or facilities;

(C) An implementation or construction schedule for any proposed measures or facilities, showing the intervals following issuance of a license when implementation of the measures or construction of the facilities would be commenced and completed;

(D) An estimate of the costs of construction, operation, and maintenance, of any proposed facilities, and of implementation of any proposed measures, including a statement of the sources and extent of financing; and

(E) A map or drawing that conforms to the size, scale, and legibility requirements of § 4.39 showing by the use of shading, cross-hatching, or other symbols the identity and location of any measures or facilities, and indicating whether each measure or facility is existing or proposed (the map or drawings in this exhibit may be consolidated).

(4) *Report on historical and archeological resources.* The report must discuss the historical and archeological resources in the project area and the impact of the project on those resources. The report must be prepared in consultation with the State Historic Preservation Officer and the National Park Service. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must contain:

(i) Identification of any sites either listed or determined to be eligible for inclusion in the National Register of Historic Places that are located in the project area, or that would be affected by operation of the project or by new development of project facilities (including facilities proposed in this exhibit);

(ii) A description of any measures recommended by the agencies consulted for the purpose of locating, identifying, and salvaging historical or archaeological resources that would be affected by operation of the project, or by new development of project facilities (including facilities proposed in this exhibit), together with a statement of what measures the applicant proposes to implement and an explanation of why the applicant rejects any measures recommended by an agency.

(iii) The following materials and information regarding the survey and salvage activities described under paragraph (f)(4)(ii) of this section:

(A) A schedule for the activities, showing the intervals following issuance of a license when the activities would be commenced and completed; and

(B) An estimate of the costs of the activities, including a statement of the sources and extent of financing.

(5) *Report on recreational resources.* The report must discuss existing and proposed recreational facilities and opportunities at the project. The report must be prepared in consultation with local, state, and regional recreation agencies and planning commissions, the National Park Service, and any other state or Federal agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted indicating the nature, extent, and results of the consultation. The report must contain:

(i) A description of any existing recreational facilities at the project, indicating whether the facilities are available for public use;

(ii) An estimate of existing and potential recreational use of the project area, in daytime and overnight visits;

(iii) A description of any measures or facilities recommended by the agencies consulted for the purpose of creating, preserving, or enhancing recreational opportunities at the project and in its vicinity (including opportunities for the handicapped), and for the purpose of ensuring the safety of the public in its use of project lands and waters;

(iv) A statement of the existing measures or facilities to be continued or maintained and the new measures or facilities proposed by the applicant for the purpose of creating, preserving, or enhancing recreational opportunities at the project and in its vicinity, and for the purpose of ensuring the safety of the public in its use of project lands and waters, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency and described under paragraph (f)(5)(iii) of this section; and

(v) The following materials and information regarding the measures and facilities identified under paragraphs (f)(5) (i) and (iv) of this section:

(A) Identification of the entities responsible for implementing, constructing, operating, or maintaining any existing or proposed measures or facilities;

(B) A schedule showing the intervals following issuance of a license at which implementation of the measures or construction of the facilities would be commenced and completed;

(C) An estimate of the costs of construction, operation, and maintenance of any proposed facilities, including a statement of the sources and extent of financing;

(D) A map or drawing that conforms to the size, scale, and legibility requirements of § 4.39 showing by the use of shading, cross-hatching, or other symbols the identity and location of any facilities, and indicating whether each facility is existing or proposed (the maps or drawings in this exhibit may be consolidated); and

(vi) A description of any areas within or in the vicinity of the proposed project boundary that are included in, or have been designated for study for inclusion in, the National Wild and Scenic Rivers System, or that have been designated as wilderness area, recommended for such designation, or designated as a wilderness study area under the Wilderness Act.

(6) *Report on land management and aesthetics.* The report must discuss the management of land within the proposed project boundary, including wetlands and floodplains, and the protection of the recreational and scenic values of the project. The report must be prepared following consultation with local and state zoning and land management authorities and any Federal or state agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted indicating the nature, extent, and results of the consultation. The report must contain:

(i) A description of existing development and use of project lands and all other lands abutting the project impoundment;

(ii) A description of the measures proposed by the applicant to ensure that any proposed project works rights-of-way, access roads, and other topographic alterations blend, to the extent possible, with the surrounding environment; (*see, e.g.,* 44 F.P.C. 1496 *et seq.*);

(iii) A description of wetlands or floodplains within, or adjacent to, the project boundary, any short-term or long-term impacts of the project on those wetlands or floodplains, and any mitigative measures in the construction or operation of the project that minimize any adverse impacts on the wetlands or floodplains;

(iv) A statement, including an analysis of costs and other constraints, of the applicant's ability to provide a buffer zone around all or any part of the impoundment, for the purpose of ensuring public access to project lands and waters and protecting the recreational and aesthetic values of the impoundment and its shoreline;

(v) A description of the applicant's policy, if any, with regard to permitting development of piers, docks, boat landings, bulkheads, and other shoreline facilities on project lands and waters; and

(vi) Maps or drawings that conform to the size, scale and legibility requirements of § 4.39, or photographs, sufficient to show the location and nature of the measures proposed under paragraph (f)(6)(ii) of this section (maps or drawings in this exhibit may be consolidated).

(7) *List of literature.* The report must include a list of all publications reports, and other literature which were cited or otherwise utilized in the preparation of any part of the environmental report.

(g) *Exhibit F* consists of general design drawings of the principal project works described under paragraph (b) of this section (Exhibit A and supporting information used to demonstrate that existing project structures are safe and adequate to fulfill their stated functions.

(1) The drawings must show all major project structures in sufficient detail to provide a full understanding of the project, including:

(i) Plans (overhead view);

(ii) Elevations (front view); and

(iii) Sections (side view).

(2) *Supporting design report.* The applicant must furnish, at a minimum, the following supporting information to demonstrate that existing structures are safe and adequate to fulfill their stated functions, and must submit such infomation in a separate report at the time the application is filed. The report must include:

(i) A description of the physical condition or state of maintenance and repair of any existing and proposed structures or equipment; and

(ii) Information relating to composition and competency of foundations and other structures, gradation of filter and riprap material, design strength and ultimate strength of concrete and steel, stress and stability analysis, spillway rating curves, water levels, and other appropriate data.

(3) The applicant must submit five copies of the supporting design report as described in paragraph (g)(2) of this section (rather than the fourteen copies required under § 4.32(b)(1) of the Commission's regulations) at the time general design drawings are submitted to the Commission for review.

(h) *Exhibit G* is a map of the project. The map must conform to the specifications of § 4.39. If more than one sheet is used, the sheets must be numbered consecutively and each sheet must bear a small inset sketch showing the entire project (or development) and indicating the portion depicted on the sheet. The map must show:

(1) *Location of the project and principal features.* The map must show the location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any permanent monuments or objects, such as roads, transmission lines or other structures, that can be noted on the map and recognized in the field. The map must also show the relative locations and physical interrelationships of the principal project works and other features described under paragraph (b) of this section (Exhibit A).

(2) *Project boundary.* The map must show a project boundary enclosing all of the principal project works and other features described under paragraph (b) of this section (Exhibit A) that are to be licensed. If accurate survey information is not available at the time the license application is filed, the applicant must so state, and a tentative boundary may be submitted. The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources (*see* paragraph (f) of this section (Exhibit E)). Existing residential, commercial, or other structures may be included within the boundary only to the extent that underlying lands are needed for project purposes (e.g., for flowage, public recreation, shoreline control, or protection of environmental resources). If the boundary is on land covered by a public land survey, ties must be shown on the map at sufficient points to permit accurate platting of the position of the boundary relative to the lines of the public land survey. If the lands are not covered by a public land survey, the best available legal description of the position of the boundary must be provided, including distances and directions from fixed monuments or physical features. The boundary must be described as follows:

(i) *Impoundments.* (A) The boundary around a project impoundment may be described by any of the following:

(*1*) Contour lines, including the contour elevation (preferred method);

(*2*) Specified courses and distances (metes and bounds);

(*3*) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(*4*) Any combination of the above methods.

(B) The boundary must be located no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the above methods, or where additional lands are necessary for project purposes, such as public recreation, shoreline control, or protection of environmental resources.

(ii) *Continuous features.* The boundary around linear ("continuous") project features such as access roads, transmission lines, and conduits may be described by specified distances from center lines or offset lines of survey. The width of such corridors must not exceed 200 feet, unless good cause is shown for a greater width. Several sections of a continuous feature may be shown on a single sheet, with information showing the sequence of contiguous sections.

(iii) *Noncontinuous features.* (A) the boundary around noncontinuous project works such as dams, spillways, and powerhouses may be described by:

(*1*) Contour lines;

(*2*) Specified courses and distances;

(*3*) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(*4*) Any combination of the above methods.

(B) The boundary must enclose only those lands that are necessary for safe and efficient operation and maintenance of the project, or for other specified project purposes, such as public recreation or protection of environmental resources.

(3) *Federal lands.* Any public lands and reservations of the United States (*see* 16 U.S.C. 796(1) and (2)) ("Federal lands") that are within the project boundary, *e.g.*, lands adminstered by the U.S. Forest Service, Bureau of Land Management, National Park Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified on the map:

(i) By legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose);

(ii) By the Federal agency, identified by symbol or legend if desired, that maintains or manages each identified subdivision of the public land survey within the project boundary; and

(iii) In the absence of a public land survey, by the location of the Federal lands according to the distances and directions from fixed monuments or physical features. When a Federal survey monument or a Federal bench mark will be destroyed or rendered unusable by the construction of project works, at least two permanent, marked, witness monuments or bench marks must be established at accessible points. The maps must show the location (and elevation, for bench marks) of the survey monument or bench mark which will be destroyed or rendered unusable, as well as of the witness monuments or bench marks. Connecting courses and distances from the witness monuments or bench marks to the original must also be shown.

(4) *Non-Federal lands.* For those lands within the project boundary not identified under paragraph (h)(3) of this section, the map must identify by legal subdivision:

(i) Lands owned in fee by the applicant and lands that the applicant plans to acquire in fee; and

(ii) Lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired or to be required by easement or lease.

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 123, 46 FR 9029, Jan. 28, 1981; Order 183, 46 FR 55251, Nov. 9, 1981; Order 184, 46 FR 55942, Nov. 13, 1981; Order 413, 50 FR 11684, Mar. 25, 1985; Order 464, 52 FR 5449, Feb. 23, 1987]

Subpart G—Application for License for Minor Water Power Projects and Major Water Power Projects 5 Megawatts or Less

§ 4.60 Applicability and notice to agencies.

(a) *Applicability.* The provisions of this subpart apply to any application for an initial license or a new license for:

(1) A minor water power project, as defined in § 4.30(b)(17);

(2) Any major project—existing dam, as defined in § 4.30(b)(16), that has a total installed capacity of 5 MW or less; or

(3) Any major unconstructed project or major modified project, as defined in § 4.30 (b) (15) and (14) respectively.

that has a total installed capacity of 5 MW or less.

(b) *Notice to agencies.* The Commission will supply interested Federal, state, and local agencies with notice of any application for license for a water power project 5 MW or less and request comment on the application. Copies of the application will be available for inspection at the Commission's Division of Public Information. The applicant shall also furnish copies of the filed application to any Federal, state, or local agency that so requests.

[Order 413, 50 FR 11685, Mar. 25, 1985]

§ 4.61 Contents of application.

(a) *General instructions.* (1) *Entry upon land.* No work may be started on any proposed project works until the applicant receives a signed license from the Commission. Acceptance of an application does not authorize entry upon public lands or reservations of the United States for any purpose. The applicant should determine whether any additional Federal, state, or local permits are required.

(2) Exhibits F and G must be submitted on separate drawings. Drawings for Exhibits F and G must have identifying title blocks and bear the following certification: "This drawing is a part of the application for license made by the undersigned this —— day of ————, 19——."

(3) Each application for a license for a water power project 5 megawatts or less must include the information requested in the initial statement and lettered exhibits described by paragraphs (b) through (f) of this section, and must be provided in the form specified. The Commission reserves the right to require additional information, or another filing procedure, if data provided indicate such action to be appropriate.

(b) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for License for a [Minor Water Power Project, or Major Water Power Project, 5 Megawatts or Less, as Appropriate]

(1) ———— (Name of Applicant) applies to the Federal Energy Regulatory Commission for ———— (license or new license, as appropriate) for the —— —— (name of project) water power project, as described hereinafter. (Specify any previous FERC project number designation.)

(2) The location of the project is:

State or territory: ————

County: ————

Township or nearby town: ————

Stream or other body of water: ————

(3) The exact name, address, and telephone number of the applicant are:

(4) The exact name, address, and telephone number of each person authorized to act as agent for the applicant in this application, if applicable, are:

(5) The applicant is a —— [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or State, as appropriate] and (is/is not) claiming perference under section 7(a) of the Federal Power Act. *See* 16 U.S.C. 796.

(6)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed with respect to bed and banks and the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief description for each requirement]

(7) Brief project description

(i) Proposed installed generating capacity —— MW.

(ii) Check appropriate box:

☐ existing dam ☐ unconstructed dam

☐ existing dam, major modified project (see § 4.30(b)(14))

(8) Lands of the United States affected (shown on Exhibit G):

	(Name)	(Acres)
(i) National Forest		
(ii) Indian Reservation.		
(iii) Public Lands Under Jurisdiction of.		
(iv) Other		
(v) Total U.S. Lands.		
(vi) Check appropriate box:		

☐ Surveyed land ☐ Unsurveyed land

(9) Construction of the project is planned to start within —— months, and is planned to be completed within —— months, from the date of issuance of license.

(c) *Exhibit A* is a description of the project and the proposed mode of operation.

(1) The exhibit must include, in tabular form if possible, as appropriate:

(i) The number of generating units, including auxiliary units, the capacity of each unit, and provisions, if any, for future units;

(ii) The type of hydraulic turbine(s);

(iii) A description of how the plant is to be operated, manual or automatic, and whether the plant is to be used for peaking;

(iv) The estimated average annual generation in kilowatt-hours or mechanical energy equivalent;

(v) The estimated average head on the plant;

(vi) The reservoir surface area in acres and, if known, the net and gross storage capacity;

(vii) The estimated hydraulic capacity of the plant (flow through the plant) in cubic feet per second and estimated average flow of the stream or water body at the plant or point of diversion; for projects with installed capacity of more than 1.5 megawatts, a flow duration curve and a description of the drainage area for the project site must be provided;

(viii) Sizes, capacities, and construction materials, as appropriate, of pipelines, ditches, flumes, canals, intake facilities, powerhouses, dams, transmission lines, and other appurtenances; and

(ix) The estimated cost of the project.

(2) State the purposes of project (for example, use of power output).

(d) Exhibit E is an Environmental Report.

(1) For major unconstructed and major modified projects 5 MW or less. Any application must contain an Exhibit E conforming with the data and consultation requirements of § 4.41(f of this chapter, if the application is for license for a water power project which has or is proposed to have a total installed generating capacity greater than 1.5 MW but not greater than 5 MW, and which:

(i) Would use the water power potential of a dam and impoundment which, at the time of application, has not been constructed (*see* § 4.30(b)(15)); or

(ii) Involves any repair, modification or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or elevation of an existing impoundment or involves any change in existing project works or operations that would result in a significant environmental impact (*see* § 4.30(b)(14)).

(2) *For minor projects and major projects at existing dams 5 MW or less.* An application for license for either a minor water power project with a total proposed installed generating capacity of 1.5 MW or less or a major project—existing dam with a proposed total installed capacity of 5 MW or less must contain an Exhibit E under this subparagraph. *See* § 4.38 for consultation requirements. The Environmental Report must contain the following information:

(i) A description, including any maps or photographs which the applicant considers appropriate, of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must include a discussion of endangered or threatened plant and animal species, any critical habitats, and any sites included in, or eligible for inclusion in, the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(ii) A description of the expected environmental impacts from proposed construction or development and the proposed operation of the power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources. The applicant must explain its reasons for not undertaking any measures proposed by any agency consulted.

(iii) A description of the steps taken by the applicant in consulting with Federal, state, and local agencies with expertise in environmental matters during the preparation of this exhibit prior to filing the application for license with the Commission. In this report, the applicant must:

(A) Indicate which agencies were consulted during the preparation of the environmental report and provide copies of letters or other documentation showing that the applicant consulted or attempted to consult with each of the relevant agencies (specifying each agency) before filing the application, including any terms or conditions of license that those agencies have determined are appropriate to prevent loss,of, or damage to, natural resources; and

(B) List those agencies that were provided copies of the application as filed with the Commission, the date or dates provided, and copies of any letters that may be received from agencies commenting on the application.

(iv) Any additional information the applicant considers important.

(e) *Exhibit F* consists of general drawings of the principal project works. The drawings need not conform to the specifications of § 4.39. The exhibit must conform to the following requirements:

(1) The exhibit must consist of ink drawings, or drawings of similar quality, on sheets no smaller than 8 and one-half inches by 11 inches, drawn to a scale no smaller than 1 inch equals 50 feet for plans, elevations, and profiles, and 1 inch equals 10 feet for sections. After initial review of the application, an original and 2 copies of any drawing must be submitted on 35mm microfilm, if requested by Commission staff.

(2) The drawings must show a plan, elevation, profile, and section of the dam structure and powerplant. Generating and auxiliary equipment proposed must be clearly and simply depicted and described. A north arrow must be included on the plan view.

(f) *Exhibit G* is a map of the project. The map need not conform to the specifications of § 4.39. The exhibit must instead conform to the following requirements:

(1) The exhibit is a map or maps that show the location of all project works and their location in relation to the stream or other water body on which the project is located and to the nearest town or any permanent monuments or objects, such as roads, transmission lines, or other structures, that can be noted on the map and recognized in the field. In the case of unsurveyed public land, or land that is not public land, give the best legal description available. If surveyed land, provide sections, subdivisions, range and township, and principal base and meridian.

(2) The map must consist of ink drawings or drawings of similar quality on sheets no smaller than 8 and one-half inches by 11 inches and not larger than 24 inches by 36 inches, drawn to a scale no smaller than one inch equals 1,000 feet. After review of the application, the applicant must submit an original of the map(s), if requested by Commission staff. Each original map must consist of a print on silver or gelatin 35mm microfilm mounted on Type D (3¼" x 7⅜") aperture cards. Two duplicates of each original must also be submitted at that time.

(3) For any minor water power project proposed to have an installed capacity of 1.5 MW or less, which will not occupy any public lands or reservations of the United States, no defini-

tive project boundary is required to be shown. The map should provide a reasonably accurate depiction of the project location and all project works and features. For any minor water power project proposed to occupy any public lands, the definitive project boundary need only be shown on such U.S. lands or reservations.

(4) Water power projects not excepted by paragraph (f)(3) of this section must include a project boundary as follows:

(i) The project boundary must enclose all project works, such as the dam, reservoir, pipelines, access and other roads, powerplant, and transmission lines. The boundary must be set at the minimum feasible distance from project works necessary to allow operation and maintenance of the project and control of the shoreline and reservoir. The project boundary may be contour elevation lines, specified courses and distances, or lines upon or parallel to public land survey lines.

(ii) The project boundary must be depicted on the map by use of contour lines (preferred method), courses and distances, public land survey, or lines parallel to the lines of the survey, or any combination of those methods for reservoirs and impoundments, and the project boundary around dams, spillways, and powerhouses; and must be depicted by specified distances from a surveyed center line or offset lines of survey for continuous features such as access roads, transmission lines, pipelines, or canals. A tape-compass survey is acceptable for determining courses and distances.

(iii) *Federal lands.* Any public lands and reservations of the United States (*see* 16 U.S.C. 796 (1) and (2)) ("Federal lands") that are within the project boundary, e.g., lands administered by the U.S. Forest Service, Bureau of Land Management, National Park Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified on the map:

(A) By legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose);

(B) By the Federal agency, identified by symbol or legend if desired, that maintains or manages each identified subdivision of the public land survey within the project boundary; and

(C) In the absence of a public land survey, by the location of the Federal lands according to the distances and directions from fixed monuments or physical features.

(iv) For clarity, use inset sketches to a larger scale than that used for the overview map to show relationships of project works, natural features, and property lines.

(v) Show one or more ties by distance and bearing from a definite, identifiable point or points on project works or the project boundary to established corners of the public land survey or other survey monuments, if available.

(vi) If the project affects unsurveyed Federal lands, the protraction of township and section lines must be shown. Such protractions, whenever available, must be those recognized by the agency of the United States having jurisdiction over the lands. On unsurveyed lands, show ties by distance and bearing to fixed recognizable objects.

[Order 185, 46 FR 55949, Nov. 13, 1981, as amended by Order 413, 50 FR 11685, Mar. 25, 1985; Order 464, 52 FR 5449, Feb. 23, 1987]

Subpart H—Application for License for Transmission Line Only

§ 4.70 Applicability.

This subpart applies to any application for license issued solely for a transmission line that transmits power from a licensed water power project or other hydroelectric project authorized by Congress to the point of junction with the distribution system or with the interconnected primary transmission system.

[Order 184, 46 FR 55942, Nov. 13, 1981]

§ 4.71 Contents of application.

An application for license for transmission line only must contain the following information in the form specified.

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATION COMMISSION

Application for License for Transmission Line Only

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a [license or new license, as appropriate] for the [name of project] transmission line only, as described in the attached exhibits, that is connected with FERC Project No. ——, for which a license [was issued, or application was made, as appropriate] on the —— day of ————, 19——.

(2) The location of the transmission line would be:

State or territory: ————————————
County: ————————————
Township or nearby town: ————————

(3) The proposed use or market for the power to be transmitted.

(4) The exact name, business address, and telephone number of the applicant are:

————————————————————

————————————————————

————————————————————

(5) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or State, as appropriate] and (is/is not) claiming preference under section 7(a) of the Federal Power Act. *See* 16 U.S.C. 796.

(6)(i) [For any applicant which, at the time of application for license for transmission line only, is a non-licensee.] The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distribution power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are: [provide citation and brief identification of the nature of each requirement; if the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power.]

(ii) [For any applicant which, at the time of application for license for transmission line only, is a licensee.] The statutory or regulatory requirements of the state(s) in which the transmission line would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, are: [provide citations and brief identification of the nature of each requirement.]

(iii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief descriptions for each law.]

(b) *Required exhibits.* The application must contain the following exhibits, as appropriate:

(1) For any transmission line that, at the time the application is filed, is not constructed and is proposed to be connected to a licensed water power project with an installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.41 of this chapter;

(2) For any transmission line that, at the time the application is filed, is not constructed and is proposed to be connected to a licensed water power project with an installed generating capacity of 5 MW or less—Exhibits E, F, and G under § 4.61 of this chapter; and

(3) For any transmission line that, at the time the application is filed, has been constructed and is proposed to be connected to any licensed water power project—Exhibits E, F, and G under § 4.61 of this chapter.

[Order 184, 46 FR 55942, Nov. 13, 1981, as amended by Order 413, 50 FR 11685, Mar. 25, 1985]

Subpart I—Application for Preliminary Permit; Amendment and Cancellation of Preliminary Permit

AUTHORITY: Federal Power Act, as amended 16 U.S.C. 792-828c; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645, unless otherwise noted.

§ 4.80 Applicability.

Sections 4.80 through 4.83 pertain to preliminary permits under Part I of the Federal Power Act. The sole purpose of a preliminary permit is to secure priority of application for a license for a water power project under Part I of the Federal Power Act while the permittee obtains the data and performs the acts required to determine the feasibility of the project and to support an application for a license.

[Order 54, 44 FR 61336, Oct. 25, 1979, as amended by Order 413, 50 FR 11685, Mar. 25, 1985]

§ 4.81 Contents of application.

Each application for a preliminary permit must include the following initial statement and numbered exhibits containing the information and documents specified:

(a) *Initial statement:*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for Preliminary Permit

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a preliminary permit for the proposed [name of project] water power project, as described in the attached exhibits. This application is made in order that the applicant may secure and maintain priority of application for a license for the project under Part I of the Federal Power Act while obtaining the data and performing the acts required to determine the feasibility of the project and to support an application for a license.

(2) The location of the proposed project is:

State or territory: ______
County: ______
Township or nearby town: ______
Stream or other body of water: ______

(3) The exact name, business address, and telephone number of the applicant are:

______
______
______

The exact name and business address of each person authorized to act as agent for the applicant in this application are:

______
______
______

(4) [Name of applicant] is a [citizen, association, citizens, domestic corporation, municipality, or State, as appropriate] and (is/is not) claiming preference under section 7(a) of the Federal Power Act. [If the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of development, transmitting, utilizing, or distributing power].

(5) The proposed term of the requested permit is [period not to exceed 36 months].

(6) If there is any existing dam or other project facility, the applicant must provide the name and address of the owner of the dam and facility. If the dam is federally owned or operated, provide the name of the agency.

(b) *Exhibit 1* must contain a description of the proposed project, specifying and including, *to the extent possible:*

(1) The number, physical composition, dimensions, general configuration and, where applicable, age and condition, of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, whether existing or proposed, that would be part of the project;

(2) The estimated number, surface area, storage capacity, and normal maximum surface elevation (mean sea level) of any reservoirs, whether existing or proposed, that would be part of the project;

(3) The estimated number, length, voltage, interconnections, and, where applicable, age and condition, of any primary transmission lines whether existing or proposed, that would be part of the project [*see* 16 U.S.C. 796(11)];

(4) The total estimated average annual energy production and installed capacity (provide only one energy and capacity value), the hydraulic head for estimating capacity and energy output, and the estimated number, rated capacity, and, where applicable, the age and condition, of any turbines and generators, whether existing or proposed, that would be part of the project works;

(5) All lands of the United States that are enclosed within the proposed project boundary described under paragraph (e)(3) of this section, identified and tabulated on a separate sheet by legal subdivisions of a public land survey of the affected area, if available; and

(6) Any other information demonstrating in what manner the proposed project would develop, conserve, and utilize in the public interest the water resources of the region.

(c) *Exhibit 2* is a description of studies conducted or to be conducted with respect to the proposed project, in cluding field studies. Exhibit 2 must supply the following information:

(1) *General requirement.* For any proposed project, a study plan containing a description of:

(i) Any studies, investigations, tests, or surveys that are proposed to be carried out, and any that have already taken place, for the purposes of determining the technical, economic, and financial feasibility of the proposed project, taking into consideration its environmental impacts, and of preparing an application for a license for the project; and

(ii) The approximate locations and nature of any new roads that would be built for the purpose of conducting the studies; and

(2) *Work plan for new dam construction.* For any development within the project that would entail new dam construction, a work plan and schedule containing:

(i) A description, including the approximate location, of any field study, test, or other activity that may alter or disturb lands or waters in the vicinity of the proposed project, including floodplains and wetlands; measures that would be taken to minimize any such disturbance; and measures that would be taken to restore the altered or disturbed areas; and

(ii) A proposed schedule (a chart or graph may be used), the total duration of which does not exceed the proposed term of the permit, showing the intervals at which the studies, investigations, tests, and surveys, identified under this paragraph are proposed to be completed.

(iii) For purposes of this paragraph, "new dam construction" means any dam construction the studies for which would require test pits, borings, or other foundation exploration in the field.

(3) *Waiver.* The Commission may waive the requirements of paragraph (c)(2) pursuant to § 385.207 of this chapter, upon a showing by the applicant that the field studies, tests, and other activities to be conducted under the permit would not adversely affect cultural resources or endangered species and would cause only minor alterations or disturbances of lands and waters, and that any land altered or disturbed would be adequately restored.

(d) *Exhibit 3* must contain a statement of costs and financing, specifying and including, *to the extent possible:*

(1) The estimated costs of carrying out or preparing the studies, investigations, tests, surveys, maps, plans or specifications identified under paragraph (c) of this section;

(2) The expected sources and extent of financing available to the applicant to carry out or prepare the studies, investigations, tests, surveys, maps, plans, or specifications identified under paragraph (c) of this section; and

(3) A description of the proposed market for the power generated at the project, including:

(i) The identity of the proposed purchaser(s) of the power, and any information that is available concerning the revenues to be derived from the sale of the power; or

(ii) If the applicant proposes to utilize the power output, the size of the applicant's power system, system peak demand and annual energy requirements, and the number of customers served by the applicant.

(e) *Exhibit 4* must include a map or series of maps, to be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a State agency, if available. *The maps need not conform to the precise specifications of § 4.39 (a) and (b).* If the scale of any base map is not sufficient to show clearly and legibly all of the information required by this paragraph, the maps submitted must be enlarged to a scale that is adequate for that purpose. (If Exhibit 4 comprises a series of maps, it must also include an index sheet showing, by outline, the parts of the entire project covered by each map of the series.) The maps must show:

(1) The location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any permanent monuments or objects that can be noted on the maps and recognized in the field;

(2) The relative locations and physical interrelationships of the principal

project features identified under paragraph (b) of this section;

(3) A proposed boundary for the project, enclosing:

(i) All principal project features identified under paragraph (b) of this section, including but not limited to any dam, reservoir, water conveyance facilities, powerplant, transmission lines, and other appurtenances; if the project is located at an existing Federal dam, the Federal dam and impoundment must be shown, but may not be included within the project boundary;

(ii) Any non-Federal lands and any public lands or reservations of the United States [*see* 16 U.S.C. 796 (1) and (2)] necessary for the purposes of the project. To the extent that those public lands or reservations are covered by a public land survey, the project boundary must enclose each of and only the smallest legal subdivisions (quarter-quarter section, lots, or other subdivisions, identified on the map by subdivision) that may be occupied in whole or in part by the project.

(4) Areas within or in the vicinity of the proposed project boundary which are included in or have been designated for study for inclusion in the National Wild and Scenic Rivers System; and

(5) Areas within the project boundary that, under the provisions of the Wilderness Act, have been:

(i) Designated as wilderness area;

(ii) Recommended for designation as wilderness area; or

(iii) Designated as wilderness study area.

(Federal Power Act, as amended, 16 U.S.C. 792-828c (1976); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. IV 1980); E.O. 12009, 3 CFR Part 142 (1978); 5 U.S.C. 553 (Supp. IV 1980))

[Order 54, 44 FR 61336, Oct. 25, 1979, as amended by Order 123, 46 FR 9029, Jan. 28, 1981; 46 FR 11811, Feb. 11, 1981; Order 225, 47 FR 19056, May 3, 1982; Order 413, 50 FR 11685, Mar. 25, 1985]

§ 4.82 Amendments.

(a) Any permittee may file an application for amendment of its permit, including any extension of the term of the permit that would not cause the total term to exceed three years. (Transfer of a permit is prohibited by section 5 of the Federal Power Act.) Each application for amendment of permit must conform to any relevan requirements of § 4.81 (b), (c), (d), an (e).

(b) If an application for amendmen of a preliminary permit requests an material change in the propose project, public notice of the application will be issued as required i § 4.32(d)(2)(i).

(c) If an application to extend th term of a permit is submitted not les than 30 days prior to the terminatio of the permit, the permit term will b automatically extended (not to excee a total term for the permit of thre years) until the Commission acts o the application for an extension. Th Commission will not accept extensio requests that are filed less than 3 days prior to the termination of th permit.

[Order 413, 50 FR 11685, Mar. 25, 1985, a amended by Order 499, 53 FR 27002, Ju 18, 1988]

§ 4.83 Cancellation and loss of priority.

(a) The Commission may cancel preliminary permit after notice an opportunity for hearing if the permittee fails to comply with the specifi terms and conditions of the permit The Commission may also cancel permit for other good cause show after notice and opportunity for hearing. Cancellation of a permit wil result in loss of the permittee's priority of application for a license for th proposed project.

(b) Failure of a permittee to file a acceptable application for a licens before the permit expires will result i loss of the permittee's priority of application for a license for the propose project.

[Order 413, 50 FR 11686, Mar. 25, 1985]

§ 4.84 Surrender of permit.

A permittee must submit a petitio to the Commission before the permittee may voluntarily surrender its permit. Unless the Commission issues an order to the contrary, the permit will remain in effect through the thirtieth day after the Commission issues a public notice of receipt of the petition.

[Order 413, 50 FR 11686, Mar. 25, 1985]

Subpart J—Exemption of Small Conduit Hydroelectric Facilities

SOURCE: Order 76, 45 FR 28090, Apr. 28, 1980, unless otherwise noted.

§ 4.90 Applicability and purpose.

This subpart implements section 30 of the Federal Power Act and provides procedures for obtaining an exemption for constructed or unconstructed small conduit hydroelectric facilities, as defined in § 4.30(b)(26), from all or part of the requirements of Part I of the Federal Power Act, including licensing, and the regulations issued under Part I.

[Order 76, 45 FR 28090, Apr. 28, 1980, as amended by Order 413, 50 FR 11686, Mar. 25, 1985]

§ 4.91 [Reserved]

§ 4.92 Contents of exemption application.

(a) An application for exemption for this subpart must include:

(1) An introductory statement, including a declaration that the facility for which application is made meets the requirements of § 4.30(b)(26), the facility qualifies but for the discharge requirement of § 4.30(b)(26)(v), the introductory statement must identify that fact and state that the application is accompanied by a petition for waiver of § 4.30(b)(26)(v), filed pursuant to § 385.207 of this chapter);

(2) Exhibits A, B, E, and G; and

(3) An appendix containing documentary evidence showing that the applicant has the real property interests required under § 4.31(b).

(b) *Introductory Statement.* The introductory statement must be set forth in the following format:

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for Exemption for Small Conduit Hydroelectric Facility

[Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for the [name of facility], a small conduit hydroelectric facility that meets the requirements of [insert the following language, as appropriate: "§ 4.30(b)(26) of this subpart" or "§ 4.30(b)(26) of this subpart, except paragraph (b)(26)(v)"], from certain provisions of Part I of the Federal Power Act.

The location of the facility is:

State or Territory: ____________

County: ____________

Township or nearby town: ____________

The exact name and business address of each applicant is:

____

The exact name and business address of each person authorized to act as agent for the applicant in this application is:

____

[Name of applicant] is [a citizen of the United States, an association of citizens of the United States, a municipality, State, or a corporation incorporated under the laws of (specify the United States or the state of incorporation, as appropriate), as appropriate].

The provisions of Part I of the Federal Power Act for which exemption is requested are:

[List here all sections or subsections for which exemption is requested.]

[If the facility does not meet the requirement of § 4.30(b)(26)(v), add the following sentence: "This application is accompanied by a petition for waiver of § 4.30(b)(26)(v), submitted pursuant to 18 CFR 385.207."]

(c) *Exhibit A.* Exhibit A must describe the small conduit hydroelectric facility and proposed mode of operation with appropriate references to Exhibits B and G. To the extent feasible the information in this exhibit may be submitted in tabular form. The following information must be included:

(1) A brief description of any conduits and associated consumptive water supply facilities, intake facilities, powerhouses, and any other structures associated with the facility.

(2) The proximate natural sources of water that supply the related conduit.

(3) The purposes for which the conduit is used.

(4) The number of generating units, including auxiliary units, the capacity of each unit, and provisions, if any, for future units.

(5) The type of each hydraulic turbine.

(6) A description of how the plant is to be operated, manually or automatically, and whether the plant is to be used for peaking.

(7) Estimations of:

(i) The average annual generation in kilowatt hours;

(ii) The average head of the plant;

(iii) The hydraulic capacity of the plant (flow through the plant) in cubic feet per second;

(iv) The average flow of the conduit at the plant or point of diversion (using best available data and explaining the sources of the data and the method of calculation); and

(v) The average amount of the flow described in paragraph (c)(7)(iv) of this section available for power generation.

(8) The planned date for beginning construction of the facility.

(9) If the hydroelectric facility discharges directly into a natural body of water and a petition for waiver of § 4.30(b)(26)(v) has not been submitted, evidence that a quantity of water equal to or greater than the quantity discharged from the hydroelectric facility is withdrawn from that water body downstream into a conduit that is part of the same water supply system as the conduit on which the hydroelectric facility is located.

(10) If the hydroelectric facility discharges directly to a point of agricultural, municipal, or industrial consumption, a description of the nature and location of that point of consumption.

(11) A description of the nature and extent of any construction of a dam that would occur in association with construction of the proposed small conduit hydroelectric facility, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after that construction; and any evidence that the construction would occur for agricultural, municipal, or industrial consumptive purposes even if hydroelectric generating facilities were not installed.

(d) *Exhibit B.* Exhibit B is a general location map that must show the following information:

(1) The physical structures of the small conduit hydroelectric facility in relation to the conduit and any dam to which any of these structures is attached;

(2) A proposed project boundary enclosing all project works to be exempted from licensing; and

(3) The ownership of the parcels o land within the proposed boundary fo the small conduit hydroelectric facility.

(e) *Exhibit E.* This exhibit is an Environmental Report. It must be prepared pursuant to § 4.38 and must include the following information, commensurate with the scope and environmental impact of the facility's construction and operation:

(1) A description of the environmental setting in the vicinity of the facility, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational use, socio-economic conditions historical and archeological resources and visual resources. The report must give special attention to endangered o threatened plant and animal species critical habitats, and sites eligible for or included on the National Register of Historic Places. The applicant may obtain assistance in the preparation o this information from State natural resources agencies, the State historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts resulting from the continued operation of an existing small conduit hydroelectric facility, or from the construction and operation of a proposed small conduit hydroelectric facility, including a discussion of the specific measures proposed by the applicant and others to protect and enhance environmental resources and to mitigate adverse impacts of the facility on them.

(3) A description of alternative means of obtaining an amount of power equivalent to that provided by the proposed or existing facility.

(4) Any additional information the applicant considers important.

(f) *Exhibit G.* Exhibit G is a set of drawings showing the structures and equipment of the small conduit hydroelectric facility. The drawings must include plan, elevation, profile, section views of the power plant, and any other principal facility structure and of any dam to which a facility structure is attached. Each drawing must be an ink drawing or a drawing of similar quality on a sheet no smaller than eight and one-half inches by eleven inches, with a scale no smaller than one inch equals 50 feet for plans and profiles and one inch equals 10 feet for sections. Generating and auxiliary equipment must be clearly and simply depicted and described. For purposes of this subpart, these drawing specifications replace those required in § 4.39 of the Commission's regulations.

[Order 76, 45 FR 28090, Apr. 28, 1980, as amended by Order 413, 50 FR 11686, Mar. 25, 1985]

§ 4.93 Action on exemption applications.

(a) An application for exemption that does not meet the eligibility requirements of § 4.30(b)(26)(v) may be accepted, provided the application has been accompanied by a request for waiver under § 4.92(a)(1) and the waiver request has not been denied. Acceptance of an application that has been accompanied by a request for waiver under § 4.92(a)(1) does not constitute a ruling on the waiver request, unless expressly stated in the acceptance.

(b) The Commission will circulate a notice of application for exemption to interested agencies at the time the applicant is notified that the application is accepted for filing. Fish and wildlife agencies will also receive copies of the application. If a particular agency does not comment within 45 days from the issuance of the notice, that agency will be presumed to have no objection to the exemption requested. A fish and wildlife agency that does not comment within that time will also be presumed to have determined that no terms or conditions of exemption are necessary to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E (§ 4.92(e)) of the application for exemption.

(c) In granting an exemption the Commission may prescribe terms or conditions in addition to those set forth in § 4.94, in order to:

(1) Protect the quality or quantity of the related water supply for agricultural, municipal, or industrial consumption;

(2) Otherwise protect life, health, or property;

(3) Avoid or mitigate adverse environmental impact; or

(4) Conserve, develop, or utilize in the public interest the water power resources of the region.

(d) *Conversion to license application.* (1) If an application for exemption under this subpart is denied by the Commission, the applicant may convert the exemption application into an application for license for the hydroelectric project.

(2) The applicant must provide the Commission with written notification, within 30 days after the date of issuance of the order denying exemption, that it intends to convert the exemption application into a license application. The applicant must submit to the Commission, no later than 90 days after the date of issuance of the order denying exemption, additional information that is necessary to conform the exemption application to the relevant regulations for a license application.

(3) If all the information timely submitted is found sufficient, together with the application for exemption, to conform to the relevant regulations for a license application, the converted application will be considered "accepted for filing" as of the date that the exemption application was accepted for filing.

[Order 76, 45 FR 28090, Apr. 28, 1980, as amended by Order 413, 50 FR 11687, Mar. 25, 1985]

§ 4.94 Standard terms and conditions of exemption.

Any exemption granted under § 4.93 for a small conduit hydroelectric facility is subject to the following standard terms and conditions:

(a) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt facility. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) *Article 3.* The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the effective date of this exemption. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) *Article 4.* In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(e) *Article 5.* The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(f) *Article 6.* Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

[Order 76, 45 FR 28090, Apr. 28, 1980, amended by Order 413, 50 FR 11687, Ma 25, 1985]

§ 4.95 Surrender of exemption.

(a) To voluntarily surrender its e emption, a holder of an exemption fo a small conduit hydroelectric facilit must file a petition with the Commi sion.

(b)(1) If construction has begu prior to filing a petition with the Con mission, the exemption holder mu consult with the fish and wildli agencies in accordance with § 4.3 substituting for the information r quired under § 4.38(b)(1) informatio appropriate to the disposition and re toration of the project works an lands. The petition must set forth th exemption holder's plans with respe to disposition and restoration of th project works and lands.

(2) If construction has begun, publi notice of the petition will be give and, at least 30 days thereafter, th Commission will act upon the petitio

(c) If no construction has begu unless the Commission issues an orde to the contrary, the exemption wi remain in effect through the thirtiet day after the Commission issues public notice of receipt of the petitio New applications involving the site o the surrendered exemption may b filed on the next business day.

(d) Exemptions may be surrendere only upon fulfillment by the exemp tion holder of such obligations unde the exemption as the Commission ma prescribe and, if construction ha begun, upon such conditions with respect to the disposition of such projec works and restoration of project land as may be determined by the Commission and the Federal and state fish and wildlife agencies.

[Order 413, 50 FR 11687, Mar. 25, 1985]

§ 4.96 Amendment of exemption.

(a) An exemption holder must construct and operate its project as described in the exemption application approved by the Commission or its delegate.

(b) If an exemption holder desires to change the design, location, method of construction or operation of its project, it must first notify the appropriate Federal and state fish and wildlife agencies and inform them in writing of the changes it intends to implement. If these agencies determine that the changes would not cause the project to violate the terms and conditions imposed by the agencies, and if the changes would not materially alter the design, location, method of construction or operation of the project, the exemption holder may implement the changes. If any of these agencies determines that the changes would cause the project to violate the terms and conditions imposed by the agencies, or if the changes would materially alter the design, location, method of construction or the operation of the project works, the exemption holder may not implement the changes without first acquiring authorization from the Commission to amend its exemption, or acquiring a license that authorizes the project, as changed.

(c) An application to amend an exemption may be filed only by the holder of the exemption. An application to amend an exemption will be governed by the Commission's regulations governing applications for exemption. The Commission will not accept applications in competition with an application to amend an exemption, unless the Director of the Office of Hydropower Licensing determines that it is in the public interest to do so.

[Order 413, 50 FR 11687, Mar. 25, 1985]

Subpart K—Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

§ 4.101 Applicability.

This subpart provides procedures for exemption on a case-specific basis from all or part of Part I of the Federal Power Act (Act), including licensing, for small hydroelectric power projects as defined in § 4.30(b)(27).

(Energy Security Act of 1980, Pub. L. 96-294, 94 Stat. 611; Federal Power Act, as amended (16 U.S.C. 792-828c); Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601-2645); and the Department of Energy Organization Act (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142 (1978))

[Order 202, 47 FR 4243, Jan. 29, 1982, as amended by Order 413, 50 FR 11687, Mar. 25, 1985; Order 482, 52 FR 39630, Oct. 23, 1987]

§ 4.102 Surrender of exemption.

(a) To voluntarily surrender its exemption, a holder of an exemption for a small hydroelectric power project must file a petition with the Commission.

(b)(1) If construction has begun, prior to filing a petition with the Commission, the exemption holder must consult with the fish and wildlife agencies in accordance with § 4.38, substituting for the information required under §4.38(b)(1) information appropriate to the disposition and restoration of the project works and lands. The petition must set forth the exemption holder's plans with respect to disposition and restoration of the project works and lands.

(2) If construction has begun, public notice of the petition will be given, and, at least 30 days thereafter, the Commission will act upon the petition. New applications involving the site may be filed on the next business day.

(c) If no construction had begun, unless the Commission issues an order to the contrary, the surrender will take effect at the close of the thirtieth day after the Commission issues a public notice of receipt of the petition. New applications involving the site may be filed on the next business day.

(d) Exemptions may be surrendered only upon fulfillment by the exemption holder of such obligations under the exemption as the Commission may prescribe and, if construction has begun, upon such conditions with respect to the disposition of such project works and restoration of project lands as may be determined by the Commission and the Federal and state fish and wildlife agencies.

(e) Where occupancy of United States lands or reservations has been permitted by a Federal agency having supervision over such lands, the exemption holder must concurrently notify that agency of the petition to surrender and of the steps that will be taken to restore the affected U.S. lands or reservations.

[Order 413, 50 FR 11688, Mar. 25, 1985]

§ 4.103 General provisions for case-specific exemption.

(a) *Exemptible projects.* Subject to the provisions in paragraph (b) of this section, § 4.31(c), and §§ 4.105 and 4.106, the Commission may exempt on a case-specific basis any small hydroelectric power project from all or part of Part I of the Act, including licensing requirements. Any applications for exemption for a project shall conform to the requirements of §§ 4.107 or 4.108, as applicable.

(b) *Limitation for licensed water power project.* The Commission will not accept for filing an application for exemption from licensing for any project that is only part of a licensed water power project.

(c) *Waiver.* In applying for case-specific exemption from licensing, a qualified exemption applicant may petition under § 385.207 of this chapter for waiver of any specific provision of §§ 4.102 through 4.107. The Commission will grant a waiver only if consistent with section 408 of the Energy Security Act of 1980.

[Order 413, 50 FR 11688, Mar. 25, 1985, as amended by Order 503, 53 FR 36568, Sept. 21, 1988]

§ 4.104 Amendment of exemption.

(a) An exemption holder must construct and operate its project as described in the exemption application approved by the Commission or its delegate.

(b) If an exemption holder desires to change the design, location, method of construction or operation of its project, it must first notify the appropriate Federal and state fish and wildlife agencies and inform them in writing of the changes it intends to implement. If these agencies determine that the changes would not cause the project to violate the terms and conditions imposed by the agencies, and if the changes would not materially alter the design, location, method of construction or operation of the project, the exemption holder may implement the changes. If any of these agencies determines that the changes would cause the project to violate the terms and conditions imposed by that agency, or if the changes would materially alter the design, location, method of construction or the operation of the project works, the exemption holder may not implement the changes without first acquiring authorization from the Commission to amend its exemption or acquiring a license for the project works that authorizes the project, as changed.

(c) An application to amend an exemption may be filed only by the holder of an exemption. An application to amend an exemption will be governed by the Commission's regulations governing applications for exemption. The Commission will not accept applications in competition with an application to amend an exemption, unless the Director of the Office of Hydropower Licensing determines that it is in the public interest to do so.

[Order 413, 50 FR 11688, Mar. 25, 1985]

§ 4.105 Action on exemption applications.

(a) *Exemption from provisions other than licensing.* An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement will be processed and considered as part of the related application for license or amendment of license.

(b)(1) *Consultation.* The Commission will circulate a notice of application for exemption from licensing to interested agencies at the time the applicant is notified that the application is accepted for filing. If a particular agency does not comment within 60 days from the date of issuance of the notice, that agency will be presumed to have no comment on or objection to the exemption requested. Any comments submitted by a fish or wildlife agency must include any specific terms or conditions that the agency has determined are necessary to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the provisions of the Fish and Wildlife Coordination Act, except those terms or conditions that may be included in Exhibit E of the application for exemption submitted under § 4.107(e). Any fish or wildlife agency that does not comment within the 60-day period will be presumed to have determined that no terms or conditions of exemption are necessary for the above purposes, except the terms and conditions included in Exhibit E of the exemption application.

(2) *Non-standard terms and conditions.* In approving any application for exemption from licensing, the Commission may prescribe terms or conditions in addition to those set forth in § 4.106 in order to:

(i) Protect the quality or quantity of the related water supply;

(ii) Otherwise protect life, health, or property;

(iii) Avoid or mitigate adverse environmental impact; or

(iv) Better conserve, develop, or utilize in the public interest the water resouces of the region.

(Energy Security Act of 1980, Pub. L. 96-294, 94 Stat. 611; Federal Power Act, as amended (16 U.S.C. 792-828c); Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601-2645); and the Department of Energy Organization Act (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142 (1978))

[Order 106, 45 FR 76123, Nov. 18, 1980, as amended by Order 202, 47 FR 4246, Jan. 29, 1982; Order 413, 50 FR 11688, Mar. 25, 1985]

§ 4.106 Standard terms and conditions of case-specific exemption from licensing.

Any case-specific exemption from licensing granted for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) *Article 1.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) *Article 2.* The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or to otherwise carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) *Article 3.* The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the date on which this exemption was granted. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing for the same project within two years of the revocation.

(d) *Article 4.* This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) *Article 5.* This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application submitted by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

(f) *Article 6.* In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(g) *Article 7.* The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(h) *Article 8.* Any exempted small hydroelectric power project that utilizes a dam that is more than 33 feet in height above streambed, as defined in 18 CFR 12.31(c) of this chapter, impounds more than 2,000 acre-feet of water, or has a significant or high hazard potential, as defined in 33 CFR Part 222, is subject to the following provisions of 18 CFR Part 12, as it may be amended:

(1) Section 12.4(b)(1) (i) and (ii), (b)(2) (i) and (iii), (b)(iv), and (b)(v);

(2) Section 12.4(c);

(3) Section 12.5;

(4) Subpart C; and

(5) Subpart D.

For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee.

(i) Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

[Order 106, 45 FR 76123, Nov. 18, 1980; 45 FR 77420, Nov. 24, 1980, as amended by Order 202, 47 FR 4246, Jan. 29, 1982; Order 413, 50 FR 11688, Mar. 25, 1985; Order 482, 52 FR 39630, Oct. 23, 1987]

§ 4.107 Contents of application for exemption from licensing.

(a) *General requirements.* An application for exemption from licensing submitted under this subpart must contain the introductory statement, the exhibits described in this section, the fee prescribed in § 381.601 of this chapter and, if the project structures would use or occupy any lands other than Federal lands, an appendix containing documentary evidence showing that applicant has the real property interests required under § 4.31(c)(2)(ii).

(b) *Introductory statement.* The application must include an introductory statement that conforms to the following format:

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for Exemption of Small Hydroelectric Power Project From Licensing

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for [name of project], a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from licensuing under the Federal Power Act. [If applicable: The project is currently licensed as FERC Project No ___.]

(2) The location of the project is:

[State or territory] ______________________________

____

[County] ______________________________

[Township or nearby town] ______________________________

____

[Stream or body of water] ______________________________

____

(3) The exact name and business address of each applicant are:

____

____

____

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are:

____

____

____

(5) [Name of applicant] is [specify, as appropriate: a citizen of the United States or other identified nation; an association of citizens of the United States or other identified nation; a municipality; a state; or a corporation incorporated under the laws of (specify the United States or the state or nation of incorporation, as appropriate).]

(c) *Exhibit A.* Exhibit A must describe the small hydroelectric power project and its proposed mode of operation. To the extent feasible, the information in this exhibit may be submitted in tabular form. The applicant must submit the following information:

(1) A brief description of any existing dam and impoundment proposed to be utilized by the small hydroelectric power project and any other existing or proposed project works and appurtenant facilities, including intake facilities, diversion structures, powerhouses, primary transmission lines, penstocks, pipelines, spillways, and other structures, and the sizes, capacities, and construction materials of those structures.

(2) The number of existing and proposed generating units at the project, including auxiliary units, the capacity of each unit, any provisions for future units, and a brief description of any plans for retirement or rehabilitation of existing generating units.

(3) The type of each hydraulic turbine of the small hydroelectric power project.

(4) A description of how the power plant is to be operated, that is, run-of-river or peaking.

(5) A graph showing a flow duration curve for the project. Identify stream gauge(s) and period of record used. If a synthetic record is utilized, provide details concerning its derivation. Furnish justification for selection of installed capacity if the hydraulic capacity of proposed generating unit(s) plus the minimum flow requirements, if not usable for power production, is less than the stream flow that is exceeded 25 percent of the time.

(6) Estimations of:

(i) The average annual generation in kilowatt-hours;

(ii) The average and design head of the power plant;

(iii) The hydraulic capacity of each turbine of the power plant (flow through the plant) in cubic feet per second;

(iv) The number of surface acres of the man-made or natural impoundment used, if any, at its normal maximum surface elevation and its net and gross storage capacities in acre-feet.

(7) The planned date for beginning and completing the proposed construction or development of generating facilities.

(8) A description of the nature and extent of any repair, reconstruction, or other modification of a dam that would occur in association with construction or development of the proposed small hydroelectric power project, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after construction.

(d) *Exhibit B.* Exhibit B is a general location map, which may be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a state agency, enlarged, if necessary, to show clearly and legibly all of the information required by this paragraph. The map must show the following information:

(1) The location of the existing and proposed physical structures of the small hydroelectric power project, including any dam or diversion structure, reservoir or impoundment, penstocks, pipelines, power plants, access roads, transmission lines, and other important features.

(2) The relationship of the project structures to the stream or other body of water on which the project is located and to the nearest town or other permanent objects that can be readily recognized in the field.

(3) A description of who owns or otherwise has real property interests in any tract of land occupied by the small hydroelectric power project or the structures to which it is directly connected.

(4) A proposed project boundary enclosing project works to be exempted from licensing.

(e) *Exhibit E.* This exhibit is an environmental report that must include the following information, commensurate with the scope and environmental impact of the construction and operation of the small hydroelectric power project. *See* § 4.38 for consultation requirements.

(1) A description of the environmental setting of the project, including vegetative cover, fish and wildlife re-

sources, water quality and quantity, land and water uses, recreational uses, historical and archeological resources, and scenic and aesthetic resources. The report must list any endangered or threatened plant and animal species, any critical habitats, and any sites eligible for or included on the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts from the proposed construction or development and the proposed operation of the small hydroelectric power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies consulted, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources.

(3) Any additional information the applicant considers important.

(f) *Exhibit G.* Exhibit G is a set of drawings showing the structures and equipment, that is, the proposed and existing project works, of the small hydroelectric power project. The drawings must include plan, elevation, and section views of the power plant, any existing dam or diversion structure, and any other principal structure of the project.

[Order 106, 45 FR 76123, Nov. 18, 1980, as amended by Order 225, 47 FR 19056, May 3, 1982; Order 413, 50 FR 11689, Mar. 25, 1985; Order 494, 53 FR 15381, Apr. 29, 1988]

§ 4.108 Contents of application for exemption from provisions other than licensing.

An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement need not be prepared according to any specific format, but must be included as an identified appendix to the related application for license or amendment of license. The application for exemption must list all sections or subsections of Part I of the Act for which exemption is requested.

[Order 106, 45 FR 76123, Nov. 18, 1980]

Subpart L—Application for Amendment of License

SOURCE: Order 184, 46 FR 55943, Nov. 13, 1981, unless otherwise noted.

§ 4.200 Applicability.

This part applies to any application for amendment of a license, if the applicant seeks to:

(a) Make a change in the physical features of the project or its boundary, or make an addition, betterment, abandonment, or conversion, of such character as to constitute an alteration of the license;

(b) Make a change in the plans for the project under license; or

(c) Extend the time fixed on the license for commencement or completion of project works.

§ 4.201 Contents of application.

An application for amendment of a license for a water power project must contain the following information in the form specified.

(a) *Initial statement.*

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for Amendment of License

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an amendment of license for the [name of project] water power project.

(2) The exact name, business address, and telephone number of the applicant are:

____

____

____

(3) The applicant is a [citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate, see 16 U.S.C. 796], licensee for the water power project, designated as Project No. —, — in the records of the Federal Energy Regulatory Commission, issued on the —— day of ———, 19—.

(4) The amendments of license proposed and the reason(s) why the proposed changes are necessary, are: [Give a statement or description]

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes are: [provide citation and brief identification of the nature of each requirement.]

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: [provide brief description for each law.]

(b) *Required exhibits for capacity related amendments.* Any application to amend a license for a water power project that would alter the actual or proposed total installed capacity of the project must be prepared pursuant to § 4.38 and must contain the following exhibits, or revisions or additions to any exhibits on file, *commensurate with the scope of the licensed project:*

(1) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.41 of this chapter;

(2) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of 1.5 MW or less—Exhibits E, F, and G under § 4.61 of this chapter;

(3) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of 5 MW or less, but more than 1.5 MW—Exhibits F and G under § 4.61 of this chapter, and Exhibit E under § 4.41 of this chapter;

(4) For amendment of a license for a water power project that, at the time the application for amendment is filed, has been constructed, and is proposed to have a total installed generating capacity of 5 MW or less—Exhibit E, F and G under § 4.61 of this chapter;

(5) For amendment of a license for a water power project that, at the time the application is filed, has been constructed and is proposed to have a total installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.51 of this chapter.

(c) *Required exhibits for non-capacity related amendments.* Any application to amend a license for a water power project that would not alter the actural or proposed total installed capacity of the project must contain those exhibits that require revision in light of the nature or the proposed amendments.

(d) *Consultation and waiver.* (1) If an applicant for license under this subpart believes that any exhibit required under paragraph (b) of this section is inappropriate with respect to the particular amendment of license sought by the applicant, a petition for waiver of the requirement to submit such exhibit may be submitted to the Commission under § 385.207(c)(4) of this chapter, after consultation with the Commission's Division by Hydropower Licensing.

(2) A licensee wishing to file an application for amendment of license under this section may seek advice from the Commission staff regarding which exhibits(s) must be submitted and whether the proposed amendment is consistent with the scope of the existing licensed project.

[Order 184, 46 FR 55943, Nov. 13, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 48 FR 4459, Feb. 1, 1983; 48 FR 16653, Apr. 19, 1983; Order 413, 50 FR 11689, Mar. 25, 1985]

§ 4.202 Alteration and extension of license.

(a) If it is determiend that approval of the application for amendment of license would constitute a significant alteration of license pursuant to section 6 of the Act, 16 U.S.C. 799, public notice of such application shall be given at least 30 days prior to action upon the application.

(b) Any application for extension of time fixed in the license for commencement or completion of construction of project works must be filed with the Commission not less than three months prior to the date or dates so fixed.

Subpart M—Fees Under Section 30(e) of the Act

SOURCE: Order 487, 52 FR 48404, Dec. 22, 1987, unless otherwise noted.

§ 4.300 Purpose, definitions, and applicability.

(a) *Purpose.* This subpart implements the amendments of section 30 of the Federal Power Act enacted by section 7(c) of the Electric Consumers Protection Act of 1986 (ECPA). It establishes procedures for reimbursing fish and wildlife agencies for costs incurred in connection with applications for an exemption from licensing and applications for licenses seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion.

(b) *Definitions.* For the purposes of this subpart—

(1) "Cost" means an expenditure made by a fish and wildlife agency:

(i) On or after the effective date of this regulation for an application filed on or after the effective date of this regulation; and

(ii) Directly related to setting mandatory terms and conditions for a proposed project pursuant to section 30(c) of the Federal Power Act.

(2) "Cost statement" means a statement of the total costs for which a fish and wildlife agency requests reimbursement including an itemized schedule of costs including, but not limited to, costs of fieldwork and testing, contract costs, travel costs, personnel costs, and administrative and overhead costs.

(3) "Mandatory terms and conditions" means terms and conditions of a license or exemption that a fish and wildlife agency determines are appropriate to prevent loss of, or damage to, fish and wildlife resources pursuant to section 30(c) of the Federal Power Act.

(4) "New dam or diversion license applicant" means an applicant for a license for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion, as defined in section 210(k) of the Public Utility Regulatory Policies Act of 1978, as amended.

(5) "PURPA benefits" means benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended.

(6) "Section 30(c) application" means an application for an exemption from licensing or a new dam or diversion license application seeking PURPA benefits.

(c) *Applicability.* Except as provided in paragraph (d) of this section, this subpart applies to:

(1) Any application for exemption filed on or after the effective date of these regulations for costs incurred by fish and wildlife agencies after the effective date of these regulations;

(2) Any new dam or diversion license application seeking PURPA benefits filed on or after April 16, 1988;

(3) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, but before April 16, 1988, if the applicant fails to demonstrate in a monetary resources petition filed with the Commission pursuant to § 292.208 of this chapter that, before October 16, 1986, it had committed substantial monetary resources directly related to the development of the proposed project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application; and

(4) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, if the application is not accepted for filing before October 16, 1989.

(d) *Exceptions.* (1) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits if the moratorium described in section 8(e) of ECPA is in effect. The moratorium will end at the expiration of the first full session of Congress following the session during which the Commission reports to Congress on the results of the study required under section 8(d) of ECPA.

(2) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits for a project located at a Government dam, as defined in section 3(10) of the

Federal Power Act, at which non-Federal hydroelectric development is permissible.

§ 4.301 Notice to fish and wildlife agencies and estimation of fees prior to filing.

(a) *Notice to agencies*—(1) *New dam or diversion license applicants.* During the initial stage or pre-filing agency consultation under § 4.38(b)(1), a prospective new dam or diversion license applicant must inform each fish and wildlife agency consulted in writing with a copy to the Commission whether it will seek PURPA benefits.

(2) *Exemption applicants.* During the initial stage of pre-filing agency consultation under § 4.38(b)(1), a prospective exemption applicant must notify each fish and wildlife agency consulted that it will seek an exemption from licensing.

(b) *Estimate of fees.* Within the comment period provided in § 4.38(b)(2)(iv), a fish and wildlife agency must provide a prospective section 30(c) applicant with a reasonable estimate of the total costs the agency anticipates it will incur to set mandatory terms and conditions for the proposed project. An agency may provide an applicant with an updated estimate as it deems necessary. If an agency believes that its most recent estimate will be exceeded by more than 25 percent, it must supply the prospective applicant or applicant with a new estimate and submit a copy to the Commission.

§ 4.302 Fees at filing.

(a) *Filing requirement.* A section 30(c) application must be accompanied by a fee or a bond, together with copies of the most recent cost estimates provided by fish and wildlife agencies pursuant to § 4.301(b).

(b) *Amount.* The fee required under paragraph (a) of this section must be in an amount equal to 50 percent of the most recent cost estimates provided by fish and wildlife agencies pursuant to § 4.301(b). In lieu of this amount, an applicant may provide an unlimited term surety bond from a company on the Department of Treasury's list of companies certified to write surety bonds. Applicants bonded by a company whose certification by the Department of the Treasury lapses must provide evidence of purchase of another bond from a certified company. A bond must be for an amount no less than 100 percent of the agencies' most recent cost estimates pursuant to § 4.301(b).

(c) *Failure to file.* The Commission will reject a section 30(c) application if the applicant fails to comply with the provisions of paragraphs (a) and (b) of this section.

§ 4.303 Post-filing procedures.

(a) *Submission of cost statement*—(1) *Accepted applications.* Within 60 days after the last date for filing mandatory terms and conditions pursuant to § 4.32(c)(4) for a new dam or diversion license application seeking PURPA benefits, § 4.93(b) for an application for exemption of a small conduit hydroelectric facility, or § 4.105(b)(1) for an application for case-specific exemption of a small hydroelectric power project, a fish and wildlife agency must file with the Commission a cost statement of the reasonable costs the agency incurred in setting mandatory terms and conditions for the proposed project. An agency may request, in writing, along with any supporting documentation an extension of this 60-day period.

(2) *Rejected, withdrawn or dismissed applications.* The Director of the Office of Hydropower Licensing (Director) will, by letter, notify each fish and wildlife agency if a section 30(c) application is rejected, withdrawn or dismissed. Within 60 days from the date of notification, a fish and wildlife agency must file with the Commission a cost statement of the reasonable costs the agency incurred prior to the date the application was rejected, withdrawn, or dismissed. An agency may submit a written request for an extension of this 60-day period along with any supporting documentation.

(b) If an agency has not submitted a cost statement or extension request within the time provided in paragraph (a)(2) of this section, it waives its right to receive fees for that project pursuant to this subpart.

(c) *Billing.* After the Commission receives a cost statement from all fish and wildlife agencies as required by paragraph (a) of this section, the Commission will bill the section 30(c) applicant. The bill will show:

(1) The cost statement submitted to the Commission by each fish and wildlife agency;

(2) Any amounts already paid by the applicant pursuant to § 4.302; and

(3)(i) The amount due, if the amount already paid by the applicant pursuant to § 4.302 is less than the total of all the cost statements; or

(ii) The amount to be refunded to the applicant, if the amount already paid by the applicant pursuant to § 4.302 is more than the total of all the cost statements.

(d) Within 45 days from the date of a bill issued under paragraph (b) of this section, a section 30(c) applicant must pay in full to the Commission any remaining amounts due on the cost statements regardless of whether any of these amounts are in dispute.

(e) *Dispute procedures*—(1) *When to dispute.* Any dispute regarding the reasonableness of any fish and wildlife agency cost statement must be made within 45 days from the date of a bill issued under paragraph (b) of this section.

(2) *Assessment of disputed cost statements* The burden of showing that an agency's cost statement is unreasonable is on the applicant. However, a fish and wildlife agency must supply the disputing applicant and the Commission with the documentation necessary to support its cost statement. The Director of the Office of Hydropower Licensing will determine the reasonableness of a disputed fish and wildlife agency cost statement. The Director's decision will be in writing. The Director will notify the disputing applicant and the fish and wildlife agency of the decision by letter. Any decision of the Director may be appealed by either party pursuant to 18 CFR 385.1902. In deciding whether or not a disputed cost statement is reasonable, the Director will review the application, the disputed cost statement and any other documentation relating to the particular environmental problems associated with the disputing applicant's proposed project. The Director will consider such factors as:

(i) The time the fish and wildlife agency spent reviewing the application;

(ii) The proportion of the cost statement to the time the fish and wildlife agency spent reviewing the application;

(iii) Whether the fish and wildlife agency's expenditures conform to Federal expenditure guidelines for such items as travel, per diem, personnel, and contracting; and

(iv) Whether the studies conducted by the agency, if any, are duplicative, limited to the proposed project area, unnecessary to determine the impacts to or mitigation measures for the particular fish and wildlife resources affected by the proposed project, or otherwise unnecessary to set terms and conditions for the proposed project.

(3) *Unreasonable cost statements.* If the Director determines that a disputed fish and wildlife agency cost statement is unreasonable, the disputing applicant and the fish and wildlife agency will be afforded 45 days from the date of notification to attempt to reach an agreement regarding the reimbursable costs of the agency. If the disputing applicant and the fish and wildlife agency fail to reach an agreement on the disputed cost statement within 45 days from the date of notification, the Director will determine the costs that the agency should reasonably have incurred.

(f) *Refunds.* (1) If the amount paid by a section 30(c) applicant under § 4.302 exceeds the total amount of the cost statements submitted by fish and wildlife agencies under paragraph (a) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days from the date of the bill issued to the applicant under paragraph (b) of this section.

(2) If the amount paid by a section 30(c) applicant exceeds the amount determined to be reasonable by the Director pursuant to paragraph (d)(2) of this section, the Commission will notify the Treasury to refund the difference to the applicant within 45 days of the resolution of all dispute proceedings.

§ 4.304 Payment.

(a) A payment required under this subpart must be made by check payable to the United States Treasury. The check must indicate that the payment is for "ECPA Fees."

(b) If a payment required under this subpart is not made within the time period prescribed for making such payment, interest and penalty charges will be assessed. Interest and penalty charges will be computed in accordance with 31 U.S.C. 3717 and 4 CFR Part 102.

(c) The Commission will not issue a license or exemption, unless the applicant has made full payments of any fees due under § 4.303(c).

§ 4.305 Enforcement.

(a) The Commision may take any appropriate action permitted by law if a section 30(c) applicant does not make a payment required under this subpart. The Commission will not be liable to any fish and wildlife agency for failure to collect any amounts under this subpart.

(b) If the Commission is unable to collect the full amount due by a section 30(c) applicant on behalf of more than one agency, the amount the Commission does collect will be distributed to the agencies on a *pro-rata* basis except if an agency's cost statement is greater than its most recent estimate to the applicant under § 4.301(b), then the difference between the estimate and the cost statement will not be reimbursed until any amounts owed to other agencies have been paid.

PART 6—SURRENDER OR TERMINATION OF LICENSE

Sec.

6.1 Application for surrender.
6.2 Surrender of license.
6.3 Termination of license.
6.4 Termination by implied surrender
6.5 Annual charges.

AUTHORITY: Secs. 6, 10(i), 13, 41 Stat. 1067, 1068, 1071, as amended, sec. 309, 49 Stat. 858; 16 U.S.C. 799, 803(i), 806, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*), unless otherwise noted.

§ 6.1 Application for surrender.

Every application for surrender of a license shall state the reason therefor; and, except in the case of an application for surrender of a license for a minor project, or for a transmission line only, shall be executed by the licensee and filed in the same form and manner as the application for license, and shall be accompanied by the license and all amendments thereof. Public notice of such application shall be given at least 30 days prior to action upon the application.

(Secs. 308 and 309; 49 Stat. 858, 859 (16 U.S.C. 825g, 825h))

[Order No. 570, 42 FR 40191, Aug. 9, 1977]

CROSS REFERENCES: For application for license, general provisions, see §§ 4.30 to 4.33, inclusive, of this chapter. For application for license for proposed major project or minor part thereof, see §§ 4.40 to 4.42, inclusive, of this chapter. For application for license for constructed major project or minor part thereof, see §§ 4.50 and 4.51 of this chapter. For forms for application for licenses, see §§ 131.2 to 131.6, inclusive, of this chapter.

§ 6.2 Surrender of license.

Licenses may be surrendered only upon the fulfillment by the licensee of such obligations under the license as the Commission may prescribe, and, if the project works authorized under the license have been constructed in whole or in part, upon such conditions with respect to the disposition of such works as may be determined by the Commission. Where project works have been constructed on lands of the United States the licensee will be required to restore the lands to a condition satisfactory to the Department having supervision over such lands and annual charges will continue until such restoration has been satisfactorily completed.

[Order 175, 19 FR 5217, Aug. 18, 1954]

§ 6.3 Termination of license.

Licenses may be terminated by written order of the Commission not less than 90 days after notice thereof shall have been mailed to the licensee by certified mail to the last address whereof the Commission has been notified by the licensee, if there is failure to commence actual construction of the project works within the time prescribed in the license, or as extended by the Commission. Upon like notice, the authority granted under a license with respect to any separable part of the project works may be terminated if there is failure to begin construction of such separable part within the time prescribed or as extended by the Commission.

(Administrative Procedure Act, 5 U.S.C. 551-557 (1976); Federal Power Act, as amended, 16 U.S.C. 291-628 (1976 & Supp. V 1981), Dept. of Energy Organization Act 42 U.S.C. 7101-7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978))

[Order 141, 12 FR 8491, Dec. 19, 1947, as amended by Order 344, 48 FR 49010, Oct. 24, 1983]

§ 6.4 Termination by implied surrender.

If any licensee holding a license subject to the provisions of section 10(i) of the Act shall cause or suffer essential project property to be removed or destroyed, or become unfit for use, without replacement, or shall abandon, or shall discontinue good faith operation of the project for a period of three years, the Commission will deem it to be the intent of the licensee to surrender the license; and not less than 90 days after public notice may in its discretion terminate the license.

[Order 141, 12 FR 8491, Dec. 19, 1947]

§ 6.5 Annual charges.

Annual charges arising under a license surrendered or terminated shall continue until the effective date set forth in the Commission's order with respect to such surrender or termination.

[Order 175, 19 FR 5217, Aug. 18, 1954]

Cross Reference: For annual charges, see Part 11 of this chapter.

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

Sec.
8.1 Publication of license conditions relating to recreation.
8.2 Posting of project lands as to recreational use and availability of information.
8.3 Discrimination prohibited.
8.11 Information respecting use and de
opment of public recreational oppo
nities.

Authority: Department of Energy O
nization Act, 42 U.S.C. 7101-7352 (19
Exec. Order No. 12,009, 3 CFR 142 (19
Federal Power Act, 16 U.S.C. 791a-8
(1982); Administrative Procedure Ac
U.S.C. 551-557 (1983).

§ 8.1 Publication of license conditions
lating to recreation.

Following the issuance or ame
ment of a license, the licensee sh
make reasonable efforts to keep
public informed of the availability
project lands and waters for re
ational purposes, and of the lice
conditions of interest to persons w
may be interested in the recreatio
aspects of the project or who m
wish to acquire lands in its vicin
Such efforts shall include but not
limited to: the publication of notice
a local newspaper once each week
4 weeks of the project's license con
tions which relate to public access
and the use of the project waters a
lands for recreational purposes, rec
ational plans, installation of recr
tion and fish and wildlife faciliti
reservoir water surface elevatio
minimum water releases or rates
change of water releases and su
other conditions of general public
terest as the Commission may des
nate in the order issuing or amendi
the license.

[Order 299, 30 FR 7313, June 3, 1965]

§ 8.2 Posting of project lands as to rec
ational use and availability of inform
tion.

(a) Following the issuance or amen
ment of a license, the licensee sh
post and shall maintain at all points
public access which are required
the license (or at such access points
are specifically designated for t
purpose by the licensee) and at su
other points as are subsequently p
scribed by the Commission on its o
motion or upon the recommendati
of a public recreation agency oper
ing in the area in which the project
located, a conspicuous sign giving t
name of the project and the owner

the project, a statement that it is licensed by the Commission and the project number, directions to the areas of the project which are available for public recreation use, permissible times and activities, and other regulations regarding such use, and advising that further information may be obtained at local offices of the licensee in the vicinity of the project. In addition, the licensee shall post at such locations conspicuous notice that the recreation facilities are open to all members of the public without discrimination.

(b) The licensee shall make available for inspection at its local offices in the vicinity of the project the recreation plan approved by the Commission and the entire license instrument, properly indexed for easy reference to the license conditions designated for publications in § 8.1.

[Order 299, 30 FR 7313, June 3, 1965, as amended by Order 341, 32 FR 6488, Apr. 27, 1967; 32 FR 11640, Aug. 11, 1967]

§ 8.3 Discrimination prohibited.

Every licensee maintaining recreation facilities for the use of the public at a licensed project, or employing or permitting any other person to maintain such facilities, shall permit, or require such other person to permit, equal and unobstructed use of such facilities to all members of the public without regard to race, color, religious creed or national origin.

[Order 341, 32 FR 6488, Apr. 27, 1967]

§ 8.11 Information respecting use and development of public recreational opportunities.

(a) *Applicability.* (1) Except as provided in paragraph (b) of this section, each licensee of a project under major or minor Commission license shall prepare with respect to each development within such project an original and two conformed copies of FERC Form No. 80 prescribed by § 141.14 of this chapter and submit them to a Commission Regional Office pursuant to the requirements in the General Information portion of the form.

(2) FERC Form No. 80 is due on April 1, 1991, for data compiled during the calendar year ending December 31, 1990. Thereafter, FERC Form No. 80 is due on April 1 of every fourth year for data compiled during the previous calendar year.

(3) The Form No. 80 shall be completed in its entirety for each initial filing of the report. Filings of Form No. 80 made subsequent to an initial filing of the report shall be completed only to the extent necessary to change, delete or add to the information supplied in a previously-filed form.

(4) A copy of the Form No. 80 should be retained by the respondent licensee in its file.

(b) *Initial Form No. 80 filings.* Each licensee of an unconstructed project shall file an initial Form No. 80 after such project has been in operation for a full calendar year prior to the filing deadline. Each licensee of an existing (constructed) project shall file an initial Form No. 80 after such project has been licensed for a full calendar year prior to the filing deadline.

(c) *Exemptions.* A licensee who has filed a Form No. 80 may request an exemption from any further filing of the form for any development that has no existing or potential recreational use by submitting a statement not later than 6 months prior to the due date for the next filing, stating that Form No. 80 has been filed previously for such development and setting out the basis for believing that the development has no existing or potential recreational use.

(Approved by the Office of Management and Budget under control number 1902-0106)

[46 FR 50059, Oct. 9, 1981, as amended by 49 FR 5073, Feb. 10, 1984; Order 419, 50 FR 20096, May 14, 1985]

PART 9—TRANSFER OF LICENSE OR LEASE OF PROJECT PROPERTY

APPLICATION FOR TRANSFER OF LICENSE

Sec.
9.1 Filing.
9.2 Contents of application.
9.3 Transfer.

APPLICATION FOR LEASE OF PROJECT PROPERTY

9.10 Filing.

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AUTHORITY: Sec. 8, 41 Stat. 1068, sec. 309, 49 Stat. 858; 16 U.S.C. 801, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*)

CROSS REFERENCE: For application for approval of transfer of license, see § 131.20 of this chapter.

APPLICATION FOR TRANSFER OF LICENSE

§ 9.1 Filing.

Any licensee desiring to transfer a license or rights thereunder granted, and the person, association, corporation, State, or municipality desiring to acquire the same, shall jointly or severally file an application for approval of such transfer and acquisition. Such application shall be verified, shall conform to § 131.20 of this chapter, and shall be filed in accordance with § 4.31 of this chapter.

[Order 501, 39 FR 2267, Jan. 18, 1974]

§ 9.2 Contents of application.

Every application for approval of such transfer and acquisition by the proposed transferee shall set forth in appropriate detail the qualifications of the transferee to hold such license and to operate the property under license, which qualifications shall be the same as those required of applicants for license.

[Order 141, 12 FR 8491, Dec. 19, 1947]

CROSS REFERENCES: For administrative rules relating to applicants for license, see Part 385 of this chapter. For regulations as to licenses and permits, see Part 4 of this chapter.

§ 9.3 Transfer.

(a) Approval by the Commission of transfer of a license is contingent upon the transfer of title to the properties under license, delivery of all license instruments, and a showing that such transfer is in the public interest. The transferee shall be subject to all the conditions of the license and to all the provisions and conditions of the act, as though such transferee were the original licensee and shall be responsible for the payment of annual charges which accrue prior to the date of transfer.

(b) When the Commission shall have approved the transfer of the license, its order of approval shall be forwarded to the transferee for acknowledgment of acceptance. Unless application for rehearing is filed, or unless the order is stayed by the Commission, the order shall become final thirty (30) days from date of issuance and the acknowledgment of acceptance shall be filed in triplicate with the Commission within sixty (60) days from date of issuance accompanied by a certified copy of the deed of conveyance or other instrument evidencing transfer of the property under license, together with evidence of the recording thereof.

[Order 175, 19 FR 5217, Aug. 18, 1954]

APPLICATION FOR LEASE OF PROJECT PROPERTY

§ 9.10 Filing.

Any licensee desiring to lease the project property covered by a license or any part thereof, whereby the lessee is granted the exclusive occupancy, possession, or use of project works for purposes of generating, transmitting, or distributing power and the person, association, or corporation, State, or municipality desiring to acquire such project property by lease, shall file as many copies of such proposed lease together with as many copies of the application as required in accordance with § 4.31 of this chapter. Such application and action thereon by the Commission will, in general, be subject to the provisions of §§ 9.1 through 9.3.

[Order 501, 39 FR 2267, Jan. 18, 1974]

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

Subpart A—Charges for Costs of Administration, Use of Tribal Lands and Other Government Lands, and Use of Government Dams

Sec.

11.1 Costs of administration.
11.2 Use of government lands.
11.3 Use of government dams, excluding pumped storage projects.
11.4 Use of government dams for pumped storage projects, and use of tribal lands.
11.5 Exemption of minor projects.
11.6 Exemption of State and municipal licensees.
11.7 Effective date.
11.8 Adjustment of annual charges.

ec.

Subpart B—Charges for Headwater Benefits

1.10 General provision; waiver and exemption; definitions.
1.11 Energy gains method of determining headwater benefits charges.
1.12 Determination of section 10(f) costs.
1.13 Energy gains calculations.
1.14 Procedures for establishing charges without an energy gains investigation.
1.15 Procedures for determining charges by energy gains investigations.
1.16 Filing requirements.
1.17 Procedures for payment of charges and costs.

Subpart C—General Procedures

1.20 Time for payment.
1.21 Penalties.
PPENDIX A TO PART 11

AUTHORITY: Federal Power Act, 16 U.S.C. 91a-825r (1982); Department of Energy Or anization Act, 42 U.S.C. 7101-7352 (1982); O 12009, 3 CFR 1978 Comp., p. 142.

ubpart A—Charges for Costs of Administration, Use of Tribal Lands and Other Government Lands, and Use of Government Dams

11.1 **Costs of administration.**

Reasonable annual charges will be ssessed by the Commission against ach licensee to reimburse the United tates for the costs of administration f Part I of the Federal Power Act as ollows:

(a) For licensees, other than State or unicipal, of projects of more than ,000 horsepower of installed capacity:

(1) A determination shall be made or each fiscal year of the costs of adinistration of Part I of the Federal ower Act chargeable to such licenses, from which shall be deducted uch administrative costs allocated by he Commission to minor part licenses or which administrative charges are aived under section 10(i) of the Act nd those fixed by the Commission in etermining headwater benefit payents.

(2) For each fiscal year the costs of dministration determined under aragraph (a)(1) of this section will be ssessed against such licensee in the roportion that the annual charge actor for each such project bears to he total of the annual charge factors nder all such outstanding licenses.

(3) The annual charge factor for each such project shall be found as follows:

(i) For a conventional project the factor is its authorized installed capacity (horsepower) plus 150 times its annual energy output in millions of kilowatt-hours.

(ii) For a pure pumped storage project the factor is the authorized horsepower.

(iii) For a mixed conventional-pumped storage project the factor is its authorized installed capacity (horsepower) plus 150 times its gross annual energy output in millions of kilowatt-hours less 100 times the annual energy used for pumped storage pumping in millions of kilowatt-hours.

(4) To enable the Commission to determine such charges annually, each licensee must file with the Commission, on or before November 1 of each year, a statement under oath showing the gross amount of power generated (or produced by nonelectrical equipment) and the amount of power used for pumped storage pumping by the project during the preceding fiscal year, expressed in kilowatt hours. If any licensee does not report the gross energy output of its project within the time specified above, the Commission's staff will estimate the energy output and this estimate may be used in lieu of the filings required by this section made by such licensee after November 1.

(5) No licensee under a license issued prior to August 26, 1935, shall be required to pay annual charges in an amount greater than that prescribed in such license.

(b) For State or municipal licensees of projects of more than 100 horsepower of installed capacity:

(1) A determination shall be made for each fiscal year of the cost of administration under Part I of the Federal Power Act chargeable to such licensees from which shall be deducted the total amount assessed against State and municipal licensees holding minor and minor-part licenses.

(2) For each fiscal year such total actual cost of administration as determined under paragraph (b)(1) of this section will be assessed against each

best copy available

such licensee in the proportion that the authorized horsepower installed capacity of each such project bears to the total such capacity under all such outstanding licenses.

(3) After such assessment each fiscal year, an exemption will be granted to a licensee to the extent, if any, to which they may be entitled under section 10(e) of the Act provided the data is submitted as requested in paragraphs (b)(4) and (5) of this section.

(4) To enable the Commission to compute on the bill for annual charges the exemption to which such licensee is entitled because of the use of power by the licensee for State or municipal purposes, each such licensee must file with the Commission, on or before November 1 of each year, a statement under oath showing the following information with respect to the power generated by the project and the disposition thereof during the preceding fiscal year, expressed in kilowatt-hours:

(i) Gross amount of power generated by the project.

(ii) Amount of power used for station purposes and lost in transmission, etc.

(iii) Net amount of power available for sale or use by licensee, classified as follows:

(*a*) Used by licensee.

(*b*) Sold by licensee.

(5) When the power from a licensed project owned by a State or municipality enters into its electric system, making it impracticable to meet the requirements of paragraph (b)(4) of this section with respect to the disposition of project power, such licensee may, in lieu thereof, furnish similar information with respect to the disposition of the available power of the entire electric system of the licensee.

(c) For licensees of projects of 2,000 horsepower or less of installed capacity the charge for costs of administration shall be 5 cents per horsepower with a minimum charge of $5 per annum for each such license except for those licenses for which administrative charges are waived under section 10(i) of the Act. No licensee under a license issued prior to August 26, 1935, shall be required to pay annual charges in an amount greater than that prescribed in such license.

(d) For projects involving transmission lines only the administration charge shall be a minimum of $5 per annum.

(e) For projects not covered by the above subsections, reasonable annual charges will be fixed by the Commission after consideration of the facts in each case.

(f) In making their annual reports to the Commission on their costs in administering Part I of the Federal Power Act, the United States Fish and Wildlife Service and the National Marine Fisheries Service are to deduct any amounts that were deposited into their Treasury accounts during that year as reimbursements for conducting studies and reviews pursuant to section 30(e) of the Federal Power Act.

(Sec. 304(a), 49 Stat. 855; 16 U.S.C. 825c(a)

[Order 205, 23 FR 4313, June 13, 1958, as amended by Order 272-A, 29 FR 8059, June 25, 1964; Order 309, 30 FR 15093, Dec. 7, 1965; Order 447, 37 FR 1164, Jan. 26, 1972. Redesignated at 51 FR 24318, July 3, 1986; Order No. 469, 52 FR 18208, May 14, 1987; Order 487, 52 FR 48406, Dec. 22, 1987]

§ 11.2 Use of Government lands.

(a) Reasonable annual charges for recompensing the United States for the use, occupancy, and enjoyment of its lands (other than lands adjoining or pertaining to Government dams or other structures owned by the United States Government) or its other property, will be fixed by the Commission. In fixing such charges the Commission may take into consideration such factors as commercial value, the most profitable use for which the lands or other property may be suited, the beneficial purpose for which said lands or other property have been or may be used, and such other factors as the Commission may deem pertinent.

(b) Pending further order of the Commission and subject to adjustments as conditions may warrant, annual charges for the use of government lands will be payable in advance, and will be set on the basis of the schedule of rental fees for linear rights-of-way as set out in Appendix A of this part. Annual charges for transmission line rights-of-way will be equal o the per-acre charges established by he above schedule. Annual charges or other project lands will be equal to wice the charges established by the chedule. The Commission, by its des- gnee the Executive Director, will pdate its fees schedule to reflect hanges in land values established by he Forest Service. The Executive Di- ector will publish the updated fee chedule in the FEDERAL REGISTER.

(c)(1) The annual land use charge ayable for the nine month transition ear of the implementation of this ule (1987) will be payable in three qual installments, with an install- nent included in the land use charges ills for 1988, 1989, and 1990.

(2) The charge for one year will qual an amount as computed under he procedures outlined in this sec- ion, or twice the previous full normal ear's bill (not including the install- nents described in paragraph (c)(1) of his section), whichever is less.

(d) The minimum annual charge for se of Government lands under any li- ense will be $25.

(e) No licensee under a license issued rior to August 26, 1935, shall be re- uired to pay annual charges in an mount greater than that prescribed n such license, except as may be oth- rwise provided in the license.

Order 560, 42 FR 1229, Jan. 6, 1977; 42 FR 366, Feb. 2, 1977. Redesignated at 51 FR 4318, July 3, 1986; Order No. 469, 52 FR 8209, May 14, 1987; 53 FR 44859, Nov. 7, 988]

11.3 Use of government dams, excluding pumped storage projects.

(a) *General rule.* (1) Any licensee hose non-Federal project uses a Gov- rnment dam or other structure for lectric power generation and whose nnual charges are not already speci- ied in final form in the license must ay the United States an annual harge for the use of that dam or ther structure as determined in ac- ordance with this section. Payment of uch annual charge is in addition to ny reimbursement paid by a licensee or costs incurred by the United States s a direct result of the licensee's roject development at such Govern- nent dam.

(2) Any licensee that is obligated under the terms of a license issued on or before September 16, 1986 to pay specified annual charges for the use of a Government dam must continue to pay the annual charges prescribed in the project license pending any readjustment of the annual charge for the project made pursuant to section 10(e) of the Federal Power Act.

(b) *Graduated flat rates.* Annual charges for the use of Government dams or other structures owned by the United States are 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours.

(c) *Information reporting.* (1) Except as provided in paragraph (c)(2) of this section, each licensee must file with the Commission, on or before November 1 of each year, a sworn statement showing the gross amount of energy generated during the preceding fiscal year and the amount of energy provided free of charge to the Government. The determination of the annual charge will be based on the gross energy production less the energy provided free of charge to the Government.

(2) A licensee who has filed these data under another section of Part 11 or who has submitted identical data with FERC or the Energy Information Administration for the same fiscal year is not required to file the information described in paragraph (c)(1) of this section. Referenced filings should be identified by company name, date filed, docket or project number, and form, number.

(d) *Credits.* A licensee may file a request with the Director of the Office of Hydropower Licensing for a credit for contractual payments made for construction, operation, and maintenance of a Government dam at any time before 30 days after receiving a billing for annual charges determined under this section. The Director, or his designee, will grant such a credit only when the licensee demonstrates that a credit is reasonably justified. The Director, or his designee, shall consider, among other factors, the contractual arrangements between the licensee and the Federal agency which owns the dam and whether these arrangements reveal clearly that substantial payments are being made for power purposes, relevant legislation, and other equitable factors.

[Order 379, 49 FR 22778, June 1, 1984, as amended by Order 379-A, 49 FR 33862, Aug. 27, 1984. Redesignated at 51 FR 24318, July 3, 1986; Order No. 469, 52 FR 18209, May 14, 1987; 52 FR 33802, Sept. 8, 1987; 53 FR 44859, Nov. 7, 1988]

§ 11.4 Use of government dams for pumped storage projects, and use of tribal lands.

(a) *General Rule.* The Commission will determine on a case-by-case basis under section 10(e) of the Federal Power Act the annual charges for any pumped storage project using a Government dam or other structure and for any project using tribal lands within Indian reservations.

(b) *Information reporting.* (1) Except as provided in paragraph (b)(2) of this section a Licensee whose project includes pumped storage facilities must file with the Commission, on or before November 1 of each year, a sworn statement showing the gross amount of energy generated during the preceding fiscal year, and the amount of energy provided free of charge to the Government, and the amount of energy used for pumped storage pumping.

(2) A licensee who has filed these data under another section of Part 11 or who has submitted identical data with FERC or the Energy Information Administration for the same fiscal year is not required to file the information required in paragraph (b)(1) of this section. Referenced filings should be identified by company name, date filed, docket or project number, and form number.

[Order 379, 49 FR 22778, June 1, 1984. Redesignated at 51 FR 24318, July 3, 1986; Order No. 469, 52 FR 18209, May 14, 1987; 52 FR 33802, Sept. 8, 1987]

§ 11.5 Exemption of minor projects.

No exemption will be made from payment of annual charges for the use of Government dams or tribal lands within Indian reservations but licenses may be issued without charges other than for such use for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in minor projects.

[Order 141, 12 FR 8492, Dec. 19, 1947. Redesignated by Order 379, 49 FR 22778, June 1, 1984. Redesignated at 51 FR 24318, July 3, 1986]

§ 11.6 Exemption of State and municipal licensees.

(a) *Bases for exemption.* A State or municipal licensee may claim total or partial exemption upon one or more of the following grounds:

(1) The project was primarily designed to provide or improve navigation;

(2) To the extent that power generated, transmitted, or distributed by the project was sold directly or indirectly to the public (ultimate consumer) without profit;

(3) To the extent that power generated, transmitted, or distributed by the project was used by the licensee for State or municipal purposes.

(b) *Projects primarily for navigation.* No State or municipal licensee shall be entitled to exemption from the payment of annual charges on the ground that the project was primarily designed to provide or improve navigation unless the licensee establishes that fact from the actual conditions under which the project was constructed and was operated during the calendar year for which the charge is made.

(c) *State or municipal use.* A State or municipal licensee shall be entitled to exemption from the payment of annual charges for the project to the extent that power generated, transmitted, or distributed by the project is used by the licensee itself for State or municipal purposes, such as lighting streets, highways, parks, public buildings, etc., for operating licensee's water or sewerage system, or in performing other public functions of the licensee.

(d) *Sales to public.* No State or municipal licensee shall be entitled to exemption from the payment of annual charges on the ground that power gen-

ated, transmitted, or distributed by
e project is sold to the public with-
t profit, unless such licensee shall
ow:
(1) That it maintains an accounting
stem which segregates the oper-
ions of the licensed project and re-
ects with reasonable accuracy the
venues and expenses of the project;
(2) That an income statement, pre-
red in accordance with the Commis-
on's Uniform System of Accounts,
ows that the revenues from the sale
project power do not exceed the
tal amount of operating expenses,
aintenance, depreciation, amortiza-
on, taxes, and interest on indebted-
ess, applicable to the project proper-
. Periodic accruals or payments for
demption of the principal of bonds
other indebtedness may not be de-
icted in determining the net profit
the project.
(e) *Sales for resale.* Notwithstanding
mpliance by a State or municipal li-
nsee with the requirements of para-
aph (d) of this section, it shall be
bject to the payment of annual
arges to the extent that electric
wer generated, transmitted, or dis-
ibuted by the project is sold to an-
her State, municipality, person, or
rporation for resale, unless the li-
nsee shall show that the power was
ld to the ultimate consumer without
ofit. The matter of whether or not a
ofit was made is a question of fact to
established by the licensee.
(f) *Interchange of power.* Notwith-
anding compliance by a State or mu-
cipal licensee with the requirements
paragraph (d) of this section, it
all be subject to the payment of
nual charges to the extent that
wer generated, transmitted, or dis-
ibuted by the project was supplied
nder an interchange agreement to a
ate, municipality, person, or corpo-
tion for sale at a profit (which
wer was not offset by an equivalent
nount of power received under such
terchange agreement) unless the li-
nsee shall show that the power was
ld to ultimate consumers without
ofit.
(g) *Construction period.* During the
eriod when the licensed project is
nder construction and is not generat-
g power, it will be considered as op-
erating without profit within the meaning of this section and licensee will be entitled to total exemption from the payment of annual charges, except as to those charges relating to the use of a Government dam or tribal lands within Indian reservations.

(h) *Optional showing.* When the power from the licensed project enters into the electric power system of the State or municipal licensee, making it impracticable to meet the requirements set forth in this section with respect to the operations of the project only, such licensee may, in lieu thereof, furnish the same information with respect to the operations of said electric power system as a whole.

(i) *Application for exemption.* Application for exemption from payment of annual charges shall be prepared on forms prescribed by the Commission and shall be signed by an authorized executive officer or chief accounting officer of the licensee and verified under oath. An original and three copies of such application shall be filed with the Commission within the time allowed (by § 11.28) for the payment of the annual charges: *Provided, however,* That if the licensee shall within the time allowed for the payment of the annual charges file notice that it intends to file application for exemption, an additional period of 30 days is allowed within which to complete and file the application for exemption.

[Order 143, 13 FR 6681, Nov. 13, 1948. Redesignated and amended by Order 379, 49 FR 22778, June 1, 1984. Redesignated at 51 FR 24318, July 3, 1986]

CROSS REFERENCE: For form of application by municipalities for exemption from payment of annual charges, see § 131.70 of this chapter.

§ 11.7 Effective date.

All annual charges imposed under this subpart will be computed beginning on the effective date of the license unless some other date is fixed in the license.

[51 FR 24318, July 3, 1986]

§ 11.8 Adjustment of annual charges.

All annual charges imposed under this subpart continue in effect as fixed unless changed as authorized by law.

[51 FR 24318, July 3, 1986]

Subpart B—Charges for Headwater Benefits

SOURCE: 51 FR 24318, July 3, 1986, unless otherwise noted.

§ 11.10 General provision; waiver and exemptions; definitions.

(a) *Headwater benefits charges.* (1) The Commission will assess or approve charges under this subpart for direct benefits derived from headwater projects constructed by the United States, a licensee, or a pre-1920 permittee. Charges under this subpart will amount to an equitable part of the annual costs of interest, maintenance, and depreciation expenses of such headwater projects and the costs to the Commission of determining headwater benefits charges. Except as provided in paragraph (b) of this section, the owner of any non-Federal downstream project that receives headwater benefits must pay charges determined under this subpart.

(2) Headwater benefits are the additional electric generation at a downstream project that results from regulation of the flow of the river by the headwater, or upstream, project, usually by increasing or decreasing the release of water from a storage reservoir.

(b) *Waiver and exemptions.* The owner of a downstream project with installed generating capacity of 1.5 MW (2000 horsepower) or less or for which the Commission has granted an exemption from section 10(f) is not required to pay headwater benefits charges.

(c) *Definitions.* For purposes of this subpart:

(1) "Energy gains" means the difference between the number of kilowatt-hours of energy produced at a downstream project with the headwater project and that which would be produced without the headwater project.

(2) "Generation" means gross generation of electricity at a hydroelectric project, including generation needed for station use or the equivalent for direct drive units, measured in kilowatt-hours. It does not include energy used for or derived from pumping in a pumped storage facility.

(3) "Headwater project costs" means the total costs of an upstream project constructed by the United States, a licensee, or pre-1920 permittee.

(4) "Separable cost" means the difference between the cost of a multiple-function headwater project with and without any particular function.

(5) "Remaining benefits" means the difference between the separable cost of a specific function in a multiple-function project and the lesser or:

(i) The benefits of that function in the project, as determined by the responsible Federal agency at the time the project or function was authorized; or

(ii) The cost of the most likely alternative single-function project providing the same benefits.

(6) "Joint-use cost" means the difference between the total project cost and the total separable costs. Joint-use costs are allocated among the project functions according to each function's percentage of the total remaining benefits.

(7) "Specific power cost" means that portion of the headwater project costs that is directly attributable to the function of power generation at the headwater project, including, but not limited to, the cost of the electric generators, turbines, penstocks, and substation.

(8) "Joint-use power cost" means the portion of the joint-use cost allocated to the power function of the project.

(9) "Section 10(f) costs" means the annual interest, depreciation, and maintenance expense portion of the joint-use power cost, including costs of non-power functions required by statute to be paid by revenues from the power function.

(10) "Party" means:

(i) The owner of a non-Federal downstream hydroelectric project which is directly benefited by a headwater project constructed by the United States, a licensee, or a pre-1920 permittee;

(ii) The owner of a headwater project constructed by the United

States, a licensee, or a pre-1920 permittee;

(iii) An operating agency of, or an agency marketing power from, a headwater project constructed by the United States; or

(iv) Any party, as defined in § 385.102(c) of this chapter.

(11) "Final charge" means a charge assessed on an annual basis to recover section 10(f) costs and which represents the final determination of the charge for the period for which headwater benefits are assessed. Final charges may be established retroactively, to finalize an interim charge, or prospectively.

(12) "Interim charge" means a charge assessed to recover section 10(f) costs for a specified period of headwater benefits pending determination of a final charge for that period.

(13) "Investment cost" means the sum of:

(i) Project construction costs, including cost of land, labor and materials, cost of pre- and post-authorization investigations, and cost of engineering, supervision, and administration during construction of the project; and

(ii) Interest during construction.

§ 11.11 Energy gains method of determining headwater benefits charges.

(a) *Applicability.* This section applies to any determination of headwater benefits charges, unless:

(1) The Commission has approved headwater benefits charges pursuant to an existing coordination agreement among the parties;

(2) The parties reach, and the Commission approves, a settlement with respect to headwater benefits charges, pursuant to § 11.14(a) of this subpart; or

(3) Charges may be assessed under § 11.14(b).

(b) *General rule*—(1) *Summary.* Except as provided in paragraph (b)(3) of this section, a headwater benefits charge for a downstream project is determined under this subpart by apportioning the section 10(f) costs of the headwater project among the headwater project and all downstream projects that are not exempt from or waived from headwater benefits charges under § 11.10(b) of this chapter, according to each project's share of the total energy benefits to those projects resulting from the headwater project.

(2) *Calculation; headwater benefits formula.* The annual headwater benefits charge for a downstream project is derived by multiplying the section 10(f) cost by the ratio of the energy gains received by the downstream project to the sum of total energy gains received by all downstream projects (except those projects specified in § 11.10(b) of this chapter) plus the energy generated at the headwater project that is assigned to the joint-use power cost, as follows:

$$P = C_p \times \frac{E_n}{E_j + E_d}$$

In which:

P = annual payment to be made for headwater benefits received by a downstream project,

C_p = annual section 10(f) cost of the headwater project,

E_n = annual energy gains received at a downstream project, or group of projects if owned by one entity,

E_d = annual energy gains received at all downstream projects (except those specified in § 11.10(b) of this chapter), and

E_j = portion of the annual energy generated at the headwater project assigned to the joint-use power cost.

(3) If power generation is not a function of the headwater project, section 10(f) costs will be apportioned only among the downstream projects.

(4) If the headwater project is constructed after the downstream project, liability for headwater benefits charges will accrue beginning on the day on which any energy losses at the downstream project due to filling the headwater reservoir have been offset by subsequent energy gains. If the headwater project is constructed prior to the downstream project, liability for headwater benefits charges will accrue beginning on the day on which benefits are first realized by the downstream project.

(5) No final charge assessed by the Commission under this subpart may

exceed 85 percent of the value of the energy gains. If a party demonstrates, within the time specified in § 11.17(b)(3) for response to a preliminary assessment, that any final charge assessed under this subpart, not including the cost of the investigation assessed under § 11.17(c), exceeds 85 percent of the value of the energy gains provided to the downstream project for the period for which the charge is assessed, the Commission will reduce the charge to not more than 85 percent of the value. For purposes of this paragraph, the "value of the energy gains" is the cost of obtaining an equivalent amount of electricity from the most likely alternative source during the period for which the charge is assessed.

§ 11.12 Determination of section 10(f) costs.

(a) *for non-Federal headwater projects.* If the headwater project was constructed by a licensee or pre-1920 permittee and a party requests the Commission to determine charges, the Commission will determine on a case-by-case basis what portion of the annual interest, maintenance, and depreciation costs of the headwater project constitutes the section 10(f) costs, for purposes of this subpart.

(b) *For Federal headwater projects.* (1) If the headwater project was constructed or is operated by the United States, and the Commission has not approved a settlement between the downstream project owner and the headwater project owner, the section 10(f) cost will be determined by deriving, from information provided by the headwater project owner pursuant to § 11.16 of this subpart, the joint-use power cost and the portion of the annual joint-use power cost that represents the interest, maintenance, and depreciation costs of the project.

(2) If power is not an authorized function of the headwater project, the section 10(f) cost is the annual interest, maintenance, and depreciation portion of the headwater project costs designated as the joint-use power cost, derived by deeming a power function at the project. The value of the benefits assigned to the deemed power function, for purposes of determining the value of remaining benefits of the joint-use power cost, is the total value of downstream energy gains included in the headwater benefits formula.

(3) For purposes of this paragraph, "total value of downstream energy gains" means the lesser of:

(i) The cost of generating an equivalent amount of electricity at the most likely alternative facility at the time the headwater project became operational; or

(ii) The incremental cost of installing electrical generation at the headwater project at the time the project became operational.

§ 11.13 Energy gains calculations.

(a) *Energy gains at a downstream project.* (1) Energy gains at a downstream project are determined by simulating operation of the downstream project with and without the effects of the headwater project. Except for determinations which are not complex or in which headwater benefits are expected to be small, calculations will be made by application of the Headwater Benefits Energy Gains Model, as presented in *The Headwater Benefits Energy Gains (HWBEG) Model Description and Users Manual*, which is available for the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

(2) If more than one headwater project provide energy gains to a downstream project, the energy gains at the dowstream project are attributed to the headwater projects according to the time sequence of commencement of operation in which each headwater project provided energy gains at the downstream project, by:

(i) Crediting the headwater project that is first in time with the amount of energy gains that it provided to the downstream project prior to operation of the headwater project that is next in time; and

(ii) Crediting any subsequent headwater project with the additional increment of energy gains provided by it to the downstream project.

(3) Annual energy losses at a downstream project, or group of projects owned by the same entity, that are at-

tributable to the headwater project will be subtracted from energy gains for the same annual period at the downstream project or group of projects. A net loss in one calendar year will be subtracted from net gains in subsequent years until no net loss remains.

(b) *Energy generated at the headwater project.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the portion of the total annual energy generation at the headwater project that is to be attributed to the joint-use power cost is derived by multiplying the total annual generation at the headwater project and the ratio of the project investment cost assigned to the joint-use power cost to the sum of the investment cost assigned to both the specific power cost and the joint-use power cost of the headwater project, as follows:

$$E_j = E \times \frac{C_j}{C_s + C_j}$$

In which:

E_j = annual energy generated at the headwater project to be attributed to the joint-use power cost,

E = total annual generation at the headwater project,

C_j = project investment costs assigned to the joint-use power cost, and

C_s = project investment costs assigned to specific power costs.

(2) If the headwater project contains a pumped storage facility, calculation of the portion of the total annual energy generation at the headwater project that is attributable to the joint-use power cost will be determined on a case-by-case basis.

(3) If no power is generated at the headwater project, the amount of energy attributable to the joint-use power cost under this section is the total of all downstream energy gains included in the headwater benefits formula.

§ 11.14 Procedures for establishing charges without an energy gains investigation.

(a) *Settlements.* (1) Owners of downstream and headwater projects subject to this subpart may negotiate a settlement for headwater benefits charges. Settlements must be filed with the Commission for its approval, according to the provisions of § 385.602.

(2) If the headwater project is a Federal project, any settlement under this section must result in headwater benefits payments that approximate those that would result under the energy gains method.

(b) *Continuation of previous headwater benefits determinations.* (1) For any downstream project being assessed headwater benefit charges on or before September 16, 1986, the Commission will continue to assess charges to that project on the same basis until changes occur in the river basin, including hydrology or project development, that affect headwater benefits.

(2) Any procedures that apply to § 11.17(b)(5) of this subpart will apply to any prospectively fixed charges that are continued under this paragraph.

§ 11.15 Procedures for determining charges by energy gains investigation.

(a) *Purpose of investigations; limitation.* Except as permitted under § 11.14, the Commission will conduct an investigation to obtain information for establishing headwater benefits charges under this subpart. The Commission will investigate and determine charges for a project downstream from a non-Federal headwater project only if the parties are unable to agree to a settlement and one of the parties requests the Commission to determine charges.

(b) *Notification.* The Commission will notify each downstream project owner and each headwater project owner when it initiates an investigation under this section, and the period of project operations to be studied will be specified. An investigation will continue until a final charge has been established for all years studied in the investigation.

(c) *Jurisdictional objections.* If any project owner wishes to object to the assessment of a headwater benefits charge on jurisdictional grounds, such objection must:

(1) Be raised within 30 days after the notice of the investigation is issued; and

(2) State in detail the grounds for its objection.

(d) *Investigations.* (1) For any downstream project for which a final charge pursuant to an investigation has never been established, the Commission will conduct an initial investigation to determine a final charge.

(2) The Commission may, for good cause shown by a party or on its own motion, initiate a new investigation of a river basin to determine whether, because of any change in the hydrology, project development, or other characteristics of the river basin that effects headwater benefits, it should:

(i) Establish a new final charge to replace a final charge previously established under § 11.17(b)(5); or

(ii) Revise any variable of the headwater benefits formula that has become a constant in calculating a final charge.

(3) *Scope of investigations.* (i) The Commission will establish a final charge pursuant to an investigation based on information available to the Commission through the annual data submission requirements of § 11.16, if such information is adequate to establish a reasonably accurate final charge.

(ii) If the information available to the Commission is not sufficient to provide a reasonably accurate calculation of the final charge, the Commission will request additional data and conduct any studies, including studies of the hydrology of the river basin and project operations, that it determines necessary to establish the charge.

§ 11.16 Filing requirements.

(a) *Applicability.* (1) Any party subject to a headwater benefits determination under this subpart must supply project-specific data, in accordance with this section, by February 1 of each year for data from the preceding calendar year.

(2) Within 30 days of notice of initiation of an investigation under § 11.15, a party must supply project-specific data, in accordance with this section, for the years specified in the notice.

(b) *Data required from owner of the headwater project.* The owner of any headwater project constructed by the United States, a licensee, or a pre-1920 permittee that is upstream from a non-Federal hydroelectric project must submit the following:

(1) Name and location of the headwater project, including the name of the stream on which it is located.

(2) The total nameplate rating of installed generating capacity of the project, expressed in kilowatts, with the portion of total capacity that represents pumped storage generating capacity separately designated.

(3) A description of the total storage capacity of the reservoir and allocation of storage capacity to each of its functions, such as dead storage, power storage, irrigation storage, and flood control storage. Identification, by reservoir elevation, of the portion of the reservoir assigned to each of its respective storage functions.

(4) An elevation-capacity curve, or a tabulation of reservoir pool elevations with corresponding reservoir storage capacities.

(5) A copy of rule curves, coordination contracts, agreements, or other relevant data governing the release of water from the reservoir, including a separate statement of their effective dates.

(6) A curve or tabulation showing actual reservoir pool elevations throughout the immediately preceding calendar year and for each year included in an investigation.

(7) The total annual gross generation of the hydroelectric plant in kilowatt-hours, not including energy from pumped storage operation.

(8) The total number of kilowatt-hours of energy produced from pumped storage operation.

(9) The investigation costs attributed to the power generation function of the project as of the close of the calendar year or at a specified date during the year, categorized according to that portion that is attributed to the specific power costs, and that portion that is attributed to the joint-use power costs.

(10) The portion of the joint-use power cost, and other costs required by law to be allocated to joint-use

power cost, each item shown separately, that are attributable to the annual costs of interest, maintenance, and depreciation, identifying the annual interest rate and the method used to compute the depreciation charge, or the interest rate and period used to compute amortization if used in lieu of depreciation, including any differing interest rates used for major replacements or rehabilitation.

(c) *Data required from owners of downstream projects.* The owner of any hydroelectric project which is downstream from a headwater project constructed by the United States, a licensee, or pre-1920 permittee must submit the following:

(1) Name and location of the downstream project, including the name of the stream on which it is located.

(2) Total nameplate rating of the installed generating capacity of the plant, expressed in kilowatts, with the portion of total capacity that represents pumped storage generating capacity separately designated.

(3) Record of daily gross generation, not including energy used for pumped storage, and any unit outage which may have occurred.

(4) The total number of kilowatt-hours of energy produced from pumped storage operation.

(d) *Abbreviated data submissions.* (1) For those items in paragraphs (b) and (c) of this section in which data for the current period are the same as data furnished for a prior period, the data need not be resubmitted if the owner identifies the last period for which the data were reported.

(2) The Commission will notify the project owner that certain data items in paragraphs (b) and (c) are no longer required to be submitted annually if:

(i) A variable in the headwater benefits formula has become a constant; or

(ii) A prospective final charge, as described in § 11.17(b)(5), has been established.

(e) *Additional data.* Owners of headwater projects or downstream projects must furnish any additional data required by the Commission staff under paragraph (a) of this section and may provide other data which they consider relevant.

§ 11.17 Procedures for payment of charges and costs.

(a) *Payment for benefits from a non-Federal headwater project.* Any billing procedures and payments determined between a non-Federal headwater project owner and a downstream project owner will occur according to the agreement of those parties.

(b) *Charges and payment for benefits from a Federal headwater project.*

(1) *Interim charges.* (i) If the Commission has not established a final charge and an investigation is pending, the Commission will issue a downstream project owner a bill for the interim charge and costs and a staff report explaining the calculation of the interim charge.

(ii) An interim charge will be a percentage of the estimate by the Commission staff of what the final charge will be, as follows:

(A) 100 percent of the estimated final charge if the Commission previously has completed an investigation of the project for which it is assessed; or

(B) 80 percent of the estimated final charge if the Commission has not completed an investigation of the project for which it is assessed.

(iii) When a final charge is established for a period for which an interim charge was paid, the Commission will apply the amount paid to the final charge.

(2) *Preliminary assessment of a final charge.* Unless the project owner was assessed a final charge in the previous year, the Commission will issue to the downstream project owner a preliminary assessment of any final charge when it is determined. A staff technical report explaining the basis of the assessment will be enclosed with the preliminary assessment. Copies of the preliminary assessment will be mailed to all parties.

(3) *Opportunity to respond.* After issuance of a preliminary assessment of a final charge, parties may respond in writing within 60 days after the preliminary assessment.

(4) *Order and bill.* (i) After the opportunity for written response by the parties to the preliminary assessment of a final charge, the Commission will

issue to the downstream project owner an order establishing the final charge. Copies of the order will be mailed to all parties. A bill will be issued for the amount of the final charge and costs.

(ii) If a final charge is not established prospectively under paragraph (b)(5) of this section, the Commission will issue an order and a bill for the final charge and costs each year until prospective final charges are established. After the Commission issues an order establishing a prospective final charge, a bill will be issued annually for the amount of the final charge and costs.

(5) *Prospective final charges.* When the Commission determines that historical data, including the hydrology, development, and other characteristics of the river basin, demonstrate sufficient stability to project average energy gains and section 10(f) costs, the Commission will issue to the downstream project owner an order establishing the final charge from future years. Copies of the order will be mailed to all parties. The prospective final charge will remain in effect until a new investigation is initiated under § 11.15(d)(2).

(6) *Payment under protest.* Any payment of a final charge required by this section may be made under protest if a party is also appealing the final charge pursuant to § 385.1902, or requesting rehearing. If payment is made under protest, that party will avoid any penalty for failure to pay under § 11.21.

(7) *Accounting for payments pending appeal or rehearing.* The Commission will retain any payment received for final charges from bills issued pursuant to this section in a special account. No disbursements to the U.S. Treasury will be made from the account until 31 days after the bill is issued. If an appeal under § 385.1902 or a request for rehearing is filed by any party, no disbursements to the U.S. Treasury will be made until final disposition of the appeal or request for rehearing.

(c) *Charges for costs of determinations of headwater benefits charges.* (1) Any owner of a downstream project that benefits from a Federal headwater project must pay to the United
States the cost of making a
gation, study, or determina
ing to the assessment of th
headwater benefits charge
subpart.

(2) If any owner of a he
downstream project reques
Commission determine head
efits charges for benefits p
non-Federal headwater pr
headwater project owners
pro rata share of 50 perc
cost of making the investi
determination, in proporti
benefits provided by thei
and the downstream proj
must pay a pro rata share
maining 50 percent in pro
the energy gains received
projects.

(3) Any charge assessed
paragraph is separate from
added to, any final or inte
under this subpart.

Subpart C—General Pro

§ 11.20 Time and payment.

Annual charges must be
45 days of rendition of a
Commission, except tha
charges for headwater ben
be paid within 30 days of r
a bill.

[51 FR 24318, July 3, 1986]

§ 11.21 Penalties.

If any person fails to
charges within the periods
§ 11.20, a penalty of 5 perc
total delinquent amount
sessed and added to the to
for the first month or part
in which payment is delin
additional penalty of 3
each full month thereafter
sessed until the charges an
are satisfied in accordance
The Commission may, by o
any penalty imposed by t
tion, for good cause shown.

[51 FR 24318, July 3, 1986]

APPENDIX A TO PART 11

FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE YEAR

State	County	Fee per acre per year
Alabama	All counties	$18.99
Arkansas	do	14.24
Arizona	Apache	4.75
	Cochise	
	Gila	
	Graham	
	La Paz	
	Mohave	
	Navajo	
	Pima	
	Yavapai	
	Yuma	
	Coconino North of Colorado River.	
	Coconino South of Colorado River.	18.99
	Greenlee	
	Maricopa	
	Pinal	
	Santa Cruz	
California	Imperial	9.49
	Inyo	
	Lassen	
	Modoc	
	Riverside	
	San Bernardino	
	Siskiyou	14.24
	Alameda	23.74
	Alpine	
	Amador	
	Butte	
	Calaveras	
	Colusa	
	Contra Costa	
	Del Norte	
	El Dorado	
	Fresno	
	Glenn	
	Humboldt	
	Kern	
	Kings	
	Lake	
	Madera	
	Mariposa	
	Mendocino	
	Merced	
	Mono	
	Napa	
	Nevada	
	Placer	
	Plumas	
	Sacramento	
	San Benito	
	San Joaquin	
	Santa Clara	
	Shasta	
	Sierra	
	Solano	
	Sonoma	
	Stanislaus	
	Sutter	
	Tehama	
	Trinity	
	Tulare	
	Tuolumne	
	Yolo	
	Yuba	
	Los Angeles	28.48
	Marin	
	Monterey	
	Orange	
	San Diego	
	San Francisco	
	San Luis Obispo	
	San Mateo	
	Santa Barbara	
	Santa Cruz	
	Ventura	
Colorado	Adams	4.75
	Arapahoe	
	Bent	
	Cheyenne	
	Crowley	
	Elbert	
	El Paso	
	Huerfano	
	Kiowa	
	Kit Carson	
	Lincoln	
	Logan	
	Moffat	
	Montezuma	
	Morgan	
	Pueblo	
	Sedgwick	
	Washington	
	Weld	
	Yuma	
	Baca	9.49
	Dolores	
	Garfield	
	Las Animas	
	Mesa	
	Montrose	9.49
	Otero	
	Prowers	
	Rio Blanco	
	Routt	
	San Miguel	
	Alamosa	18.99
	Archuleta	
	Boulder	
	Chaffee	
	Clear Creek	
	Conejos	
	Costilla	
	Custer	
	Denver	
	Delta	
	Douglas	
	Eagle	
	Fremont	
	Gilpin	
	Grand	
	Gunnison	
	Hinsdale	
	Jackson	
	Jefferson	

FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE YEAR—Continued

State	County	Fee per acre per year
	Lake	
	La Plata	
	Larimer	
	Mineral	
	Ouray	
	Park	
	Pitkin	
	Rio Grande	
	Saguache	
	San Juan	
	Summit	
	Teller	
Connecticut	All counties	4.75
Florida	Baker	28.48
	Bay	
	Bradford	
	Calhoun	
	Clay	
	Columbia	
	Dixie	
	Duval	
	Escambia	
	Franklin	
	Gadsden	
	Gilchrist	
	Gulf	
	Hamilton	
	Holmes	
	Jackson	
	Jefferson	
	Lafayette	
	Leon	
	Liberty	
	Madison	
	Nassau	
	Okaloosa	
	Santa Rosa	
	Suwannee	
	Taylor	
	Union	
	Wakulla	
	Walton	
	Washington	
	All Other Counties	47.47
Georgia	All counties	28.48
Idaho	Cassia	4.75
	Gooding	
	Jerome	
	Lincoln	
	Minidoka	
	Oneida	
	Owyhee	
	Power	
	Twin Falls	
	Ada	14.24
	Adams	
	Bannock	
	Bear Lake	
	Benewah	
	Bingham	
	Blaine	
	Boise	
	Bonner	
	Bonneville	
	Boundary	
	Butte	
	Camas	
	Canyon	
	Caribou	
	Clark	
	Clearwater	
	Custer	
	Elmore	
	Franklin	
	Fremont	
	Gem	
	Idaho	
	Jefferson	
	Kootenai	
	Latah	
	Lemhi	
	Lewis	
	Madison	
	Nez Perce	
Idaho (cont)	Payette	14.2
	Shoshone	
	Teton	
	Valley	
	Washington	
Kansas	All other counties	4.7
	Morton	9.4
Illinois	All counties	14.2
Indiana	do	23.7
Kentucky	do	14.2
Louisiana	do	28.4
Maine	do	14.24
Michigan	Alger	14.2
	Baraga	
	Chippewa	
	Dickinson	
	Delta	
	Gogebic	
	Houghton	14.2
	Iron	
	Keweenaw	
	Luce	
	Mackinac	
	Marquette	
	Menominee	
	Ontonagon	
	Schoolcraft	
	All other counties	18.9
Minnesota	All counties	14.2
Mississippi	do	18.9
Missouri	do	14.2
Montana	Big Horn	4.7
	Blaine	
	Carter	
	Cascade	
	Chouteau	
	Custer	
	Daniels	
	McCone	
	Meagher	
	Dawson	
	Fallon	
	Fergus	
	Garfield	
	Glacier	
	Golden Valley	4.7

FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE YEAR—Continued

State	County	Fee per acre per year
	Hill	
	Judith Basin	
	Liberty	
	Musselshell	
	Petroleum	
	Phillips	
	Pondera	
	Powder River	
	Prairie	
	Richland	
	Roosevelt	
	Rosebud	
	Sheridan	
	Teton	
	Toole	
	Treasure	
	Valley	
	Wheatland	
	Wibaux	
	Yellowstone	
	Beaverhead	14.24
	Broadwater	
	Carbon	
	Deer Lodge	
	Flathead	
	Gallatin	
	Granite	
	Jefferson	
	Lake	
	Lewis and Clark	
	Lincoln	
	Madison	
	Mineral	
	Missoula	
	Park	
	Powell	
	Ravalli	
	Sanders	
	Silver Bow	
	Stillwater	14.24
	Sweet Grass	
Nebraska	All counties	4.75
Nevada	Churchill	2.37
	Clark	
	Elko	
	Esmeralda	
	Eureka	
	Humboldt	
	Lander	
	Lincoln	
	Lyon	
	Mineral	
	Nye	
	Pershing	
	Washoe	
	White Pine	
	Carson City	23.74
	Douglas	
	Storey	
New Hampshire	All counties	14.24
New Mexico	Chaves	4.75
	Curry	
	De Baca	
	Dona Ana	
	Eddy	
	Grant	
	Guadalupe	
	Harding	4.75
	Hidalgo	
	Lea	
	Luna	
	McKinley	
	Otero	
	Quay	
	Roosevelt	
	San Juan	
	Socorro	
	Torrance	
	Rio Arriba	9.49
	Sandoval	
	Union	
	Bernalillo	18.99
	Catron	
	Cibola	
	Colfax	
	Lincoln	
	Los Alamos	
	Mora	
	San Miguel	
	Santa Fe	
	Sierra	
	Taos	
	Valencia	
New York	All counties	18.99
North Carolina	do	28.48
North Dakota	do	4.75
Ohio	do	18.99
Oklahoma	All other counties	4.75
	Beaver	9.49
	Cimarron	
	Roger Mills	
	Texas	
	Le Flore	14.24
	McCurtain	
Oregon	Harney	4.75
	Lake	
	Malheur	
	Baker	9.49
	Crook	
	Deschutes	
	Gilliam	
	Grant	
	Jefferson	
	Klamath	
	Morrow	
	Sherman	
	Umatilla	
	Union	
	Wallowa	
	Wasco	9.49
	Wheeler	
	Coos	14.24
	Curry	
	Douglas	
	Jackson	
	Josephine	
	Benton	18.99
	Clackamas	
	Clatsop	
	Columbia	

FEE SCHEDULES FOR LINEAR RIGHTS-OF-WAY RENTAL RATE YEAR—Continued

State	County	Fee per acre per year
	Hood River	
	Lane	
	Lincoln	
	Linn	
	Marion	
	Multnomah	
	Polk	
	Tillamook	
	Washington	
	Yamhill	
Pennsylvania	All counties	18.99
Puerto Rico	All	28.48
South Dakota	Butte	14.24
	Custer	
	Fall River	
	Lawrence	
	Mead	14.24
	Pennington	
	All other counties	4.75
South Carolina	All counties	28.48
Tennessee	All counties	18.99
Texas	Culberson	4.75
	El Paso	
	Hudspeth	
	All other counties	28.48
Utah	Beaver	4.75
	Box Elder	
	Carbon	
	Duchesne	
	Emery	
	Garfield	
	Grand	
	Iron	
	Jaub	
	Kane	
	Millard	
	San Juan	
	Tooele	
	Uintah	
	Wayne	
	Washington	9.49
	Cache	14.24
	Daggett	
	Davis	
	Morgan	
	Piute	
	Rich	
	Salt Lake	
	Sanpete	
	Sevier	
	Summit	
	Utah	
	Wasatch	
	Weber	
Vermont	All counties	18.99
Virginia	All counties	18.99
Washington	Adams	9.49
	Asotin	
	Benton	
	Chelan	
	Columbia	
	Douglas	
	Franklin	
	Garfield	
	Grant	
	Kittitas	
	Klickitat	
	Lincoln	
	Okanagan	
	Spokane	
	Walla Walla	9.4
	Whitman	
	Yakima	
	Ferry	14.2
	Pend Oreille	
	Stevens	
	Clallam	18.9
	Clark	
	Cowlitz	
	Grays Harbor	
	Island	
	Jefferson	
	King	
	Kitsap	
	Lewis	
	Mason	
	Pacific	
	Pierce	
	San Juan	
	Skagit	
	Skamania	
	Snohomish	
	Thurston	
	Wahkiakum	
	Whatcom	
West Virginia	All counties	18.9
Wisconsin	do	14.2
Wyoming	Albany	4.7
	Campbell	
	Cargon	
	Converse	
	Goshen	
	Hot Springs	
	Johnson	
	Laramie	
	Lincoln	
	Natrona	
	Niobrara	
	Platte	
	Sheridan	
	Sweetwater	
	Fremont	
	Sublette	
	Uinta	
	Washakie	
	Big Horn	14.24
	Crook	
	Park	
	Teton	
	Weston	
All other zones		6.94

[53 FR 44859, Nov. 7, 1988]

PART 12—SAFETY OF WATER POWER PROJECTS AND PROJECT WORKS

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AUTHORITY: Federal Power Act, as amended, 16 U.S.C. 792-828c (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 142 (1978).

SOURCE: Order 122, 46 FR 9036, Jan. 28, 1981, unless otherwise noted.

Subpart A—General Provisions

§ 12.1 Applicability.

(a) Except as otherwise provided in this part or ordered by the Commission or its authorized representative, the provisions of this part apply to:

(1) Any project licensed under Part I of the Federal Power Act;

(2) Any unlicensed constructed project for which the Commission has determined that an application for license must be filed under Part I of the Act; and

(3) Any project exempted from licensing under Part I of the Federal Power Act, pursuant to Subparts J or K of Part 4 of this chapter, to the extent that the Commission has conditioned the exemption on compliance with any particular provisions of this part.

(b) The provisions of this part apply to a project that uses a Government dam only with respect to those project works, lands, and waters specifically licensed by the Commission.

§ 12.2 Rules of construction.

(a) If any term, condition, article, or other provision in a project license is similar to any provision of this part, the licensee must comply with the relevant provision of this part, unless the Commission or the Director of the Office of Hydropower Licensing determines that compliance with the relevant provision of the license will better protect life, health, or property.

(b) A licensee may request from the Director of the Office of Hydropower Licensing a ruling on the applicability to its actions of any provision of its license that is similar to a provision of this part. A ruling by the Director may be appealed under § 385.207 of this chapter.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 49 FR 29370, July 20, 1984]

§ 12.3 Definitions.

(a) *General rule.* For purposes of this part, terms defined in section 3 of the Federal Power Act, 16 U.S.C. 796, have the same meaning as they have under the Act.

(b) *Definitions.* The following definitions apply for the purposes of this part:

(1) "Applicant" means any person, state, or municipality that has applied for a license for an unlicensed, constructed project and any owner of an unlicensed, constructed project for which the Commission has determined that an application for license must be filed.

(2) "Owner" means any person, state, or municipality, or combination thereof, that has a real property interests in a water power project sufficient to operate and maintain the project works.

(3) "Authorized Commission representative" means the Director of the Office of Hydropower Licensing, the Director of the Division of Inspections, the Regional Engineer, or any other member of the Commission staff whom the Commission may specifically designate.

(4) "Condition affecting the safety of a project or project works" means any condition, event, or action at the project which might compromise the safety, stability, or integrity of any project work or the ability of any project work to function safely for its intended purposes, including navigation, water power development, or other beneficial public uses; or which might otherwise adversely affect life, health, or property. Conditions affecting the safety of a project or project works include, but are not limited to:

(i) Unscheduled rapid draw-down of impounded water;

(ii) Failure of any facility that controls the release or storage of impounded water, such as a gate or a valve;

(iii) Failure or unusual movement, subsidence, or settlement of any part of a project work;

(iv) Unusual concrete deterioration or cracking, including development of new cracks or the lengthening or widening of existing cracks;

(v) Piping, slides, or settlements of materials in any dam, abutment, dike, or embankment;

(vi) Significant slides or settlements of materials in areas adjacent to reservoirs;

(vii) Significant damage to slope protection;

(viii) Unusual instrumentation readings;

(ix) New seepage or leakage or significant gradual increase in pre-existing seepage or leakage;

(x) Sinkholes;

(xi) Significant instances of vandalism or sabotage;

(xii) Natural disasters, such as floods, earthquakes, or volcanic activity;

(xiii) Any other signs of instability of any project work.

(5) "Constructed project" means any project with an existing dam.

(6) "Dam" means any structure for impounding or diverting water.

(7) "Development" means that part of a project comprising an impoundment and its associated dams, forebays, water conveyance facilities, power plants, and other appurtenant facilities. A project may comprise one or more developments.

(8) "Modification" means any activity, including repair or reconstruction, that in any way changes the physical features of the project from the state reflected in the plans or drawings or other documents filed with the Commission.

(9) "Project emergency" means an impending or actual sudden release of water at the project caused by natural disaster, accident, or failure of project works.

(10) "Regional Engineer" means the person in charge of the Commission's regional office for the region (Atlanta, Chicago, Fort Worth, New York, or San Francisco) where a particular project is located.

(11) "Act" means the Federal Power Act.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.4 Staff administrative responsibility and supervisory authority.

(a) *Administrative responsibility.* The Director of the Office of Hydropower Licensing is responsible for administering the Commission's project safety program and reports directly to the Chairman of the Federal Energy Regulatory Commission.

(b) *Supervisory authority of the Reional Engineer or other authorized epresentative.* (1) Any water power roject and the construction, opertion, maintenance, use, repair, or nodification of any project works are ubject to the inspection and the suervision of the Regional Engineer or ny other authorized Commission repesentative for the purpose of:

(i) Achieving or protecting the afety, stability, and integrity of the roject works or the ability of any roject work to function safely for its ntended purposes, including navigaion, water power development, or ther beneficial public uses; or

(ii) Otherwise protecting life, health, r property.

(2) For the purposes set forth in aragraph (b)(1) of this section, a Reional Engineer or other authorized Commission representative may:

(i) Test or inspect any water power roject or project works or require hat the applicant or licensee perform uch tests or inspections or install nonitoring instruments;

(ii) Require an applicant or a licensee to submit reports or information, egarding:

(A) The design, construction, opertion, maintenance, use, repair, or nodification of a water power project r project works; and

(B) Any condition affecting the afety of a project or project works or ny death or injury that occurs at, or night be attributable to, the water ower project;

(iii) Require an applicant or a licensee to modify:

(A) Any emergency action plan filed nder Subpart C of this part; or

(B) Any plan of corrective measures, ncluding related schedules, submitted fter the report of an independent onsultant pursuant to § 12.37 or any ther inspection report;

(iv) Require an applicant or licensee o take any other action with respect o the design, construction, operation, maintenance, repair, use, or modification of the project or its works that is, in the judgment of the Regional Engineer or other authorized Commission representative, necessary or desirable.

(v) Establish the time for an applicant or licensee to provide a schedule for or to perform any actions specified in this paragraph.

(c) *Appeal, stay, rescission, or amendment of order or directive.* (1) Any order or directive issued under this section or under the provisions of Subparts B through E of this part by a Regional Engineer or other authorized Commission representative may be appealed to the Commission under § 385.207 of this chapter.

(2) Any order or directive issued under this section by a Regional Engineer or other authorized Commission representative is immediately effective and remains in effect until:

(i) The Regional Engineer or other authorized Commission representative who issued the order or directive rescinds or amends that order or directive or stays its effect; or

(ii) The Commission stays the effect of the order or directive, or amends or rescinds the order or directive on appeal.

(3) An appeal or motion for rescission, amendment, or stay of any order or directive issued under this section must contain a full explanation of why granting the appeal or the request for rescission or amendment of the order or directive, or for stay for the period requested, will not endanger life, health, or property.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 49 FR 29370, July 20, 1984]

§ 12.5 Responsibilities of licensee or applicant.

A licensee or applicant must use sound and prudent engineering practices in any action relating to the design, construction, operation, maintenance, use, repair, or modification of a water power project or project works.

Subpart B—Reports and Records

§ 12.10 Reporting safety-related incidents.

(a) *Conditions affecting the safety of a project or its works.*—(1) *Oral reports.* An applicant or licensee must report by telephone to the Regional Engineer any condition affecting the safety of a project or projects works, as defined in § 12.3(b)(4). The initial oral report must be made as soon as practicable after that condition is discovered, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency action procedure.

(2) *Written reports.* Following the initial oral report required in paragraph (a)(1), the applicant or licensee must submit to the Regional Engineer a written report on the condition affecting the safety of the project or project works verified in accordance with § 12.13. The written report must be submitted within the time specified by the Regional Engineer and must contain any information the Regional Engineer directs, including:

(i) The causes of the condition;

(ii) A description of any unusual occurrences or operating circumstances preceding the condition;

(iii) An account of any measure taken to prevent worsening of the condition;

(iv) A detailed description of any damage to project works and the status of any repair;

(v) A detailed description of any personal injuries;

(vi) A detailed description of the nature and extent of any private property damages; and

(vii) Any other relevant information requested by the Regional Engineer.

(3) The level of detail required in any written report must be commensurate with the severity and complexity of the condition.

(b) *Deaths or serious injuries.* (1) Promptly after becoming aware of any drowning or other accident resulting in death or serious injury that occurs at the project, the applicant or licensee must report that drowning or other accident to the Regional Engineer in writing, including a description of the cause and location of the accident.

(2) The written report of any death or serious injury considered or alleged to be project related must also describe any remedial actions taken or proposed to avoid or reduce the chance of similar occurrences in the future and be verified in accordance with § 12.13.

(3) Accidents that are not project-related may be reported by providing a copy of a clipping from a newspaper article, if available.

(4) For the purposes of this paragraph, "project-related" includes any deaths or serious injuries involving a dam, spillway, intake, or power line, or which take place at or immediately above or below a dam.

§ 12.11 Reporting modifications of the project or project works.

(a) *Reporting requirement.* Regardless of whether a particular modification is permitted without specific prior Commission approval, an applicant or licensee must report any modification of the project or project works to the Regional Engineer in writing, verified in accordance with § 12.13, at the time specified in paragraph (b) of this section.

(b) *Time of reporting.* (1) Any modification that is an emergency measure taken in response to a condition affecting the safety of the project or project works must be submitted with the report of that condition required by § 12.10(a)(2).

(2) In all other instances, the modification must be reported at least 60 days before work on the modification begins.

§ 12.12 Maintenance of records.

(a) *Kinds of records*—(1) *General rule.* Except as provided in paragraph (a)(2) of this section, the applicant or licensee must maintain as permanent project records in addition to those required in Part 125 of this chapter, the following information:

(i) Engineering and geological data relating to design, construction, maintenance, repair, or modification of the project, including design memoranda and drawings, laboratory and other testing reports, geologic data (such as maps, sections, or logs of exploratory borings or trenches, foundation treatment, and excavation), plans and specifications, inspection and quality control reports, "as built" construction drawings, designers' operating criteria, photographs, and any other data necessary to demonstrate that construction, maintenance, repair, or modification of the project has been performed n accordance with plans and specificaions;

(ii) Instrumentation observations nd data collected during construcion, operation or maintenance of the roject, including continuously mainained tabular records and graphs ilustrating the data collected pursuant o § 12.41; and

(iii) The operational and mainteance history of the project, includng:

(A) The dates, times, nature, and auses of any complete or partial unscheduled shut-down, suspension of roject operations, or reservoir filling estrictions related to the safety of the roject or project works; and

(B) Any reports of project modificaions, conditions affecting the safety of the project or project works, or eaths or serious injuries at the roject.

(2) *Exception.* The applicant or liensee is not required to maintain as ermanent project records any information specified in paragraph (a)(1) of his section that was or reasonably ould have been prepared before the pplicant or licensee acquired control f the project and that the applicant r the licensee never acquired or reaonably could have acquired.

(b) *Location of records*—(1) *Original ecords.* The applicant or licensee must maintain the originals of all permanent project records at a central loation, such as the project site or the main business office of the applicant r licensee, secure from damage from ny conceivable failure of the project orks and convenient for inspection. The applicant or licensee must keep he Regional Engineer advised of the ocation of the permanent project ecords.

(2) *Record copies.* If the originals of he permanent project records are maintained at a central location other han the project site, the applicant or icensee must maintain at the project ite copies of at least the project Exhibit G or L (design drawings), instrumentation data, and operational history that are necessary to the safe and fficient operation of the project.

(3) In accordance with the provisions f Part 125 of this chapter, the appliant or licensee may maintain original records, or record copies at the project site, in microform, if appropriate equipment is readily available to view the records.

(c) *Transfer of records.* If the project is taken over by the United States at the end of a license term or the Commission issues a new license to a different licensee, the prior licensee must transfer the originals of all permanent project records to the custody of the administering Federal agency or department or to the new licensee.

§ 12.13 Verification form.

If a document submitted in accordance with the provisions of this part must be verified, the form of verification attached to the document must be the following:

State of [ ],
County of [ ], ss:

The undersigned, being first duly sworn, states that [he, she] has read the above document and knows the contents of it, and that all of the statements contained in that document are true and correct, to the best of [his, her] knowledge and belief.

[Name of person signing]

Sworn to and subscribed before me this [day] of [month], [year].

[Seal]

[Signature of notary public or other state or local official authorized by law to notarize documents.]

Subpart C—Emergency Action Plans

§ 12.20 General requirements.

(a) Unless provided with a written exemption pursuant to § 12.21, every applicant or licensee must develop and file with the Regional Engineer three copies of an emergency action plan and appendices, verified in accordance with § 12.13.

(b) The emergency action plan must be:

(1) Developed in consultation and cooperation with appropriate Federal, state, and local agencies responsible for public health and safety; and

(2) Designed to provide early warning to upstream and downstream inhabitants, property owners, operators of water-related facilities, recreational users, and other persons in the vicinity

who might be affected by a project emergency as defined in § 12.3(b)(9).

§ 12.21 Exemptions.

(a) *Grant of exemption.* Except as provided in paragraph (b), if an applicant or licensee satisfactorily demonstrates that no reasonably foreseeable project emergency would endanger life, health, or property, the Regional Engineer may exempt the applicant or licensee from filing an emergency action plan.

(b) *No exemption.* A licensee or applicant may not be exempted from the requirements of § 12.22(c) for a radiological response plan.

(c) *Conditions of exemptions.* (1) An applicant or licensee who receives an exemption from filing an emergency action plan has the continuing responsibility to review circumstances upstream and downstream from the project to determine if, as a result of changed circumstances, a project emergency might endanger life, health, or property.

(2) Promptly after the applicant or licensee learns that, as a result of any change in circumstances, a project emergency might endanger life, health, or property, the applicant or licensee must inform the Regional Engineer of that changed condition without unduly delaying the preparation and implementation of the emergency action plan.

(3) Comprehensive review of the necessity for an emergency action plan must be conducted at least once each year.

(d) *Revocation of exemption.* (1) The Regional Engineer may revoke an exemption granted under this section if it is determined that, as a result of any change in circumstances, a project emergency might endanger life, health, or property.

(2) If an exemption is revoked, the applicant or licensee must file an emergency action plan within the time specified by the Regional Engineer.

§ 12.22 Contents of emergency action plan.

(a) *Contents*—(1) *The plan itself.* An emergency action plan must conform with the guidelines established, and from time to time revised, by the Director of the Office of Hydropower Licensing (available from the division of Inspections or the Regional Engineer) to provide:

(i) Instructions to project operators and attendants and other responsible personnel about the actions they are to take during a project emergency;

(ii) Detailed plans for notifying potentially affected persons, appropriate Federal, state, and local agencies, including public safety and law enforcement bodies, and medical units; and

(iii) Procedures for controlling the flow of water, including actions to reduce in-flows to reservoirs, such as limiting outflows from upstream dams or control structures, and actions to reduce downstream flows, such as increasing or decreasing outflows from downstream dams or control structures, on the waterway on which the project is located or its tributaries.

(2) *Appendix to the plan.* Each copy of the emergency action plan submitted to the Regional Engineer must be accompanied by an appendix conforming with the guidelines established by the Director of the Office of Hydropower Licensing that contains:

(i) Plans for training project operators, attendants, and other responsible personnel to respond properly during a project emergency, including instructions on the procedures to be followed throughout a project emergency and the manner in which the licensee will periodically review the knowledge and understanding that these personnel have of those procedures;

(ii) A summary of the study used for determining the upstream and downstream areas that may be affected by sudden release of water, including a summary of all criteria and assumptions used in the study and, if required by the Regional Engineer, inundation maps; and

(iii) Documentation of consultations with Federal, state, and local agencies including public safety and law enforcement bodies, and medical units.

(b) *Special factors.* The applicant or licensee must take into account in its emergency action plan the time of day, particularly hours of darkness, in establishing the proper actions and procedures for use during a project emergency.

(c) *Additional requirements for*
rojects near nuclear power plants.—
) *Radiological response plan.* If the
ersonnel operating any powerhouse
any spillway control facilities, such
gates or valves, of a project would
located within ten miles of a nucle-
power plant reactor, the applicant
licensee must file, separately or as a
upplement to any required emergen-
action plan, a radiological response
lan that provides for emergency pro-
edures to be taken if an accident or
ther incident results in the release of
adioactive materials from the nuclear
ower plant reactor.

(2) A radiological response plan
ust:

(i) To the maximum extent practica-
le, include sufficient procedural safe-
uards to ensure that, during or fol-
owing an accident or other incident
volving the nearby nuclear power
lant reactor, the project may be
afely operated and, if evacuation is
ecessary, the project may be left un-
ttended without danger to the safety
f any project dam or to life, health,
r safety upstream or downstream
rom the project; and

(ii) Explain the provisions, developed
fter consultation with the direct pur-
hasers of project power, for cessation,
urtailment, or continuation of gen-
ration of electric power at the project
uring or following an accident or
ther incident involving the nearby
uclear power plant reactor.

(3) *Time of filing radiological re-*
ponse plan. (i) For a constructed
roject with an otherwise acceptable
mergency action plan on file, any ra-
iological response plan required must
e filed:

(A) If an operating license for the
uclear power plant has been issued
n or before March 1, 1981, not later
han three months from March 1,
981; or

(B) In all other instances, not later
han three months after the date an
perating license for the nuclear
ower plant is issued.

(ii) For any project not described in
12.22(c)(3)(i), any radiological re-
ponse plan required must be filed
ontemporaneously with the emergen-
y action plan or, if the project has
een exempted from filing an emergency action plan, at the time the emergency action plan would otherwise have been required to be filed pursuant to § 12.23.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.23 Time for filing emergency action plan.

(a) *Unconstructed project.* (1) Except as set forth in paragraph (a)(2), the emergency action plan for an unconstructed project must be filed no later than 60 days before the initial filling of the project reservoir begins.

(2) *Temporary impoundment during construction.* (i) For any unconstructed project, if a temporary impoundment would be created during construction, such as through construction of temporary or permanent cofferdams or large sediment control structures, and an accident to or failure of the impounding structures might endanger construction workers or otherwise endanger public health or safety, a temporary construction emergency action plan must be filed no later than 60 days before construction begins.

(ii) No later than 60 days before the initial filling of a project reservoir begins at a project for which a temporary emergency action plan has been filed the applicant or licensee must file modifications to that plan or a new plan, taking into account the differences in circumstances between the construction and post-construction periods.

(b) *Unlicensed constructed project.* (1) If the Commission has determined on or before March 1, 1981 that a license is required for an unlicensed constructed project, the emergency action plan for that project must be filed no later than:

(i) Six months after March 1, 1981; or

(ii) Any earlier date specified by the Commission or its authorized representative.

(2) Except as set forth in paragraph (b)(1) of this section, the emergency action plan for an unlicensed constructed project must be filed no later than the earliest of:

(i) Six months after the date that a license application is filed;

(ii) Six months after the date that the Commission issues an order determining that licensing is required; or

(iii) A date specified by the Commission or its authorized representative.

(c) *Licensed constructed project.* If a licensed constructed project does not have an acceptable emergency action plan on file on March 1, 1981 the emergency action plan must be filed no later than:

(1) Six months after March 1, 1981; or

(2) Any earlier date specified by the Commission or its authorized representative.

(d) For good cause shown, the Regional Engineer may grant an extension of time for filing all or any part of an emergency action plan.

§ 12.24 Review and updating of plans.

(a) The emergency action plan must be continually updated to reflect any changes in the names or titles of project operators and attendants and other personnel with specified responsibilities for actions in an emergency and any changes in names of persons to call, telephone numbers, radio call signals, or other information critical to providing notification to affected persons, Federal, state, and local agencies, and medical units.

(b) An applicant or licensee has continuing responsibility to review the adequacy of the emergency action plan in light of any significant changes in upstream or downstream circumstances which might affect water flows or the location or extent of the areas, persons, or property that might be harmed in a project emergency.

(c) Promptly after an applicant or licensee learns of any change in circumstances described in paragraph (b) of this section, the applicant or licensee must:

(1) Inform the Regional Engineer of that change in circumstances;

(2) Consult and cooperate with appropriate Federal, state, and local agencies responsible for public health and safety to determine any advisable revisions to the emergency action plan; and

(3) File with the Regional Engineer three copies of any revisions to the appropriate studies, maps, plans, procedures, or other information in the emergency action plan itself or its appendices that have changed as a result of that consultation.

(d) An applicant or licensee must conduct a comprehensive review of the adequacy of the emergency action plan at least once each year.

§ 12.25 Posting and readiness.

(a) A copy of the current emergency action plan itself must be posted in a prominent location readily accessible to the licensee's or applicant's operating personnel who are responsible for controlling water flows and for notifying public health and safety agencies and affected persons.

(b) Each licensee or applicant must annually test the state of training and readiness of key licensee or applicant personnel responsible for responding properly during a project emergency to ensure that they know and understand the procedures to be followed throughout a project emergency.

Subpart D—Inspection by Independent Consultant

§ 12.30 Applicability.

This subpart applies to any licensed project development that has a dam:

(a) That is more than 32.8 feet (10 meters) in height above streambed, as defined in § 12.31(c);

(b) That impounds an impoundment with a gross storage capacity of more than 2,000 acre-feet (2.5 million cubic meters); or

(c) That has a high hazard potential and is determined by the Regional Engineer or other authorized Commission representative to require inspection by an independent consultant under this subpart.

§ 12.31 Definitions.

For purposes of this subpart:

(a) "Independent consultant" means any person who:

(1) Is a licensed professional engineer;

(2) Has at least 10 years experience and expertise in dam design and con

struction and in the investigation of the safety of existing dams; and

(3) Is not, and has not been within two years before being retained to perform an inspection under this subpart, an employee of the licensee or its affiliates or an agent acting on behalf of the licensee or its affiliates.

(b) "Dam that has a high hazard potential" means any dam whose failure, in the judgment of the Commission or its authorized representative, might endanger human life or cause significant property damage, or which meets the criteria for high hazard potential as defined by the Corps of Engineers in 33 CFR Part 222.

(c) "Height above streambed" means:

(1) For a dam with a spillway, the vertical distance from the lowest elevation of the natural streambed at the downstream toe of the dam to the maximum water storage elevation possible without any discharge from the spillway. The maximum water storage elevation is:

(i) For gated spillways, the elevation of the tops of the gates;

(ii) For ungated spillways, the elevation of the spillway crest or the top of any flashboards, whichever is higher;

(2) For a dam without a spillway, the vertical distance from the lowest elevation of the natural streambed at the downstream tow of the dam to the lowest point on the crest of the dam.

(d) "Gross storage capacity" means the maximum possible volume of water impounded by a dam with zero spill, that is, without the discharge of water over the dam or a spillway.

(e) The Director of the Office of Hydropower Licensing may, for good cause shown, grant a waiver of the 10 year requirement in paragraph (a)(2) of this section. Any petition for waiver under this paragraph must be filed in accordance with § 1.7(b) of this chapter.

[Order 122, 46 FR 9036, Jan. 28 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.32 General inspection requirement.

In accordance with the procedures in § 12.35, the project works of each development to which this subpart applies, excluding transmission and transformation facilities and generating equipment, must be periodically inspected and evaluated by or under the responsibility and direction of at least one independent consultant, who may be a member of a consulting firm, to identify any actual or potential deficiencies, whether in the condition of those project works or in the quality or adequacy of project maintenance, surveillance, or methods of operation, that might endanger public safety.

§ 12.33 Exemption.

(a) Upon written request from the licensee, the Director of the Office of Hydropower Licensing may grant an exemption from the requirements of this subpart in extraordinary circumstances that clearly establish good cause for exemption.

(b) Good cause for exemption may include the finding that the development in question has no dam except dams that meet the criteria for low hazard potential as defined by the Corps of Engineers in 33 CFR Part 222.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.34 Approval of independent consultant.

At least 60 days before the initiation of an inspection under this subpart, the licensee must submit to the Director of the Office of Hydropower Licensing for approval, with a copy to the Regional Engineer, a detailed resume that (a) describes the experience of the independent consultant; and, (b) shows that the consultant is an independent consultant as defined in § 12.31(a).

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended at 49 FR 29370, July 20, 1984]

§ 12.35 Specific inspection requirements.

(a) *Scope of inspection.* The inspection by the independent consultant shall include:

(1) Due consideration of all relevant reports on the safety of the development made by or written under the direction of Federal or state agencies, submitted under Commission regulations, or made by other consultants;

(2) Physical field inspection of the project works and review and assessment of all relevant data concerning:

(i) Settlement;

(ii) Movement;

(iii) Erosion;

(iv) Seepage;

(v) Leakage;

(vi) Cracking;

(vii) Deterioration;

(viii) Seismicity;

(ix) Internal stress and hydrostatic pressures in project structures or their foundations or abutments;

(x) The functioning of foundation drains and relief wells;

(xi) The stability of critical slopes adjacent to a reservoir or project works; and

(xii) Regional and site geological conditions and

(3) Specific evaluation of:

(i) The adequacy of spillways;

(ii) The effects of overtopping of nonoverflow structures;

(iii) The structural adequacy and stability of structures under all credible loading conditions;

(iv) The relevant hydrological data accumulated since the project was constructed or last inspected under this subpart;

(v) The history of the performance of the project works through analysis of data from monitoring instruments; and

(vi) The quality and adequacy of maintenance, surveillance, and methods of project operations for the protection of public safety.

(b) *Evaluation of spillway adequacy.* The adequacy of any spillway must be evaluated by considering hazard potential which would result from failure of the project works during flood flows.

(1) If structural failure would present a hazard to human life or cause significant property damage, the independent consultant must evaluate the ability of project works to withstand the loading or overtopping which may occur from a flood up to the probable maximum flood or the capacity of spillways to prevent the reservoir from rising to an elevation that would endanger the project works.

(2) If structural failure would not present a hazard to human life or cause significant property damage, spillway adequacy may be evaluated by means of a design flood of lesser magnitude than the probable maximum flood, if the report of the independent consultant pursuant to § 12.37 provides a detailed explanation of the bases for the finding that structural failure would not present a hazard to human life or cause significant property damage.

§ 12.36 Emergency corrective measures.

If, in the course of an inspection, an independent consultant discovers any condition for which emergency corrective measures are advisable, the independent consultant must immediately notify the licensee and the licensee must report that condition to the Regional Engineer pursuant to § 12.10(a) of this part.

§ 12.37 Report of the independent consultant.

(a) *General requirement.* Following inspection of a project development as required under this subpart, the independent consultant must prepare a report and the licensee must file three copies of that report with the Regional Engineer. The report must conform to the provisions of this section and be satisfactory to the authorized Commission representative.

(b) *General information in the initial report.* (1) The initial report filed under this subpart for any project development must contain:

(i) A description of the project development;

(ii) A map of the region indicating the location of the project development;

(iii) Plans, elevations, and sections of the principal project works;

(iv) A summary of the design assumptions, design analyses, spillway design flood, and the factors of safety used to evaluate the structural adequacy and stability of the project works; and

(v) A summary of the geological conditions that may affect the safety of the project works.

(2) To the extent that the information and analyses required in paragraph (b)(1) of this section, are con-

tained in a report of an independent consultant prepared and filed in compliance with Commission regulations in effect before March 1, 1981 the information and analyses may be incorporated by specific reference into the first report prepared and filed under this subpart.

(c) *Information required for all reports.* Any report of an independent consultant filed under this subpart must contain the information specified in this paragraph.

(1) *Monitoring information.* The report must contain monitoring information that includes time-versus-reading graphs depicting data compiled from any existing critical or representative monitoring instruments that measure the behavior, movement, deflection, or loading of project works or from which the stability, performance, or functioning of the structures may be determined.

(i) Any monitoring data plotted on graphs must be presented in a manner that will facilitate identification and analysis of trends. The data may be summarized to facilitate graphical representation.

(ii) Plan and sectional drawings of project structures sufficient to show the location of all critical or representative existing monitoring instruments must be included. If these drawings have been included in a previous report prepared and filed by an independent consultant, they may be incorporated by specific reference to that earlier report.

(2) *Analyses.* The report must:

(i) Analyze the safety of the project works and the maintenance and methods of operation of the development fully in light of the independent consultant's reviews, field inspections, assessments, and evaluations described in § 12.35;

(ii) Identify any changes in the information and analyses required by paragraph (b) of this section that have occurred since the last report by an independent consultant under this subpart and analyze the implications of those changes; and

(iii) Analyze the adequacy of existing monitoring instruments, periodic observation programs, and other methods of monitoring project works and conditions effecting the safety of the project or project works with respect to the development.

(3) *Incorporation by reference.* To the extent that conditions, assumptions, and available information have not changed since the last previous report by an independent consultant under this subpart, the analyses required under paragraphs (c)(2)(i) and (ii) of this section may be incorporated by specific reference to the last previous report.

(4) *Recommendations.* Based on the independent consultant's field observations and evaluations of the project works and the maintenance, surveillance, and methods of operation of the development, the report must contain the independent consultant's recommendations on:

(i) Any corrective measures necessary for the structures or for the maintance or surveillance procedures or methods of operation of the project works;

(ii) A reasonable time to carry out each corrective measure; and

(iii) Any new or additional monitoring instruments, periodic observations, or other methods of monitoring project works or conditions that may be required.

(5) *Dissenting views.* If the inspection and report were conducted and prepared by more than one independent consultant, the report must clearly indicate any dissenting views concerning the analyses or recommendations of the report that might be held by any individual consultant.

(6) *List of participants.* The report must identify all professional personnel who have participated in the inspection of the project or in preparation of the report and the independent consultant who directed those activities.

(7) *Statement of independence.* The independent consultant must declare that all conclusions and recommendations in the report are made independently of the licensee, its employees, and its representatives.

(8) *Signature.* The report must be signed by each independent consultant responsible for the report.

§ 12.38 Time for inspections and reports.

(a) *General rule.* After the initial inspection and report under this subpart for a project development, a new inspection under this subpart must be completed and the report on it filed not later than five years from the date the last report on an inspection was to be filed under this subpart.

(b) *Initial inspection and report.* (1) For any development that has a dam that is more than 32.8 feet (10 meters) in height above streambed or impounds an impoundment with a gross storage capacity of more than 2,000 acre feet (2.5 million cubic meters), which development was constructed before the date of issuance of the order licensing or amending a license to include that development, the initial inspection under this subpart must be completed and the report on it filed not later than two years after the date of issuance of the order licensing the development or amending the license to include the development.

(2) For any development that was constructed after the date of issuance of the order licensing or amending a license to include the development, the initial inspection under this subpart must be completed and the report on it filed not later than five years from the date of first commercial operation, or the date on which the impoundment first reaches its normal maximum surface elevation, whichever occurs first.

(3) For any development not set forth in either subparagraph (b)(1) or (b)(2), the initial inspection under this subpart must be completed and the report on it filed by a date specified by the Regional Engineer. The filing date must not be more than two years after the date of notification that an inspection and report under this subpart are required.

(4) The last independent consultant's inspection and report made for a development before March 1, 1981 in compliance with the Commission's rules then in effect is deemed to fulfill the requirements for an initial inspection and report under this subpart for that development, except that the first report filed under this subpart for that development after March 1, 1981 must contain the information and analyses required by § 12.37(b).

(c) *Extension of time.* For good cause shown, the Regional Engineer may extend the time for filing an independent consultant's report under this subpart.

§ 12.39 Taking corrective measures after the report.

(a) *Corrective plan and schedule.* (1) Not later than 60 days after the report of the independent consultant is filed with the Regional Engineer, the licensee must submit to the Regional Engineer three copies of a plan and schedule for designing and carrying out any corrective measures that the licensee proposes.

(2) The plan and schedule may include any proposal, including taking no action, that the licensee considers a preferable alternative to any corrective measure recommended in the report of the independent consultant. Any proposed alternative must be accompanied by the licensee's complete justification and detailed analysis and evaluation in support of that alternative.

(b) *Carrying out the plan.* The licensee must complete all corrective measures in accordance with the plan and schedule submitted to, and approved or modified by, the Regional Engineer.

(c) *Extension of time.* For good cause shown, the Regional Engineer may extend the time for filing the plan and schedule required by this section.

Subpart E—Other Responsibilities of Applicant or Licensee

§ 12.40 Quality control programs.

(a) *General rule.* During any construction, repair, or modification of project works, including any corrective measures taken pursuant to § 12.39 of this part, the applicant or licensee must maintain any quality control program that may be required by the Regional Engineer, commensurate with the scope of the work and meeting any requirements or standards set by the Regional Engineer. If a quality control program is required, the construction, repair, or modification may not begin until the Regional Engineer has approved the program.

(b) If the construction, repair, or modification work is performed by a onstruction contractor, quality conrol inspection must be performed by he licensee, the design engineer, or an ndependent firm, other than the contruction contractor, directly accountable to the licensee. This paragraph is not intended to prohibit additional quality control inspections by the construction contractor, or a firm accountable to the construction contracor, for the construction contractor's purposes.

(c) If the construction, repair, or modification of project works is performed by the applicant's or licensee's own personnel, the applicant or licensee must provide for separation of authority within its organization to make certain that the personnel responsible for quality control inspection are, to the satisfaction of the Regional Engineer or other authorized Commission representative, independent from the personnel who are responsible for the construction, repair or modification.

§ 12.41 Monitoring instruments.

(a) In designing a project, a licensee must make adequate provision for installing and maintaining appropriate monitoring instrumentation whenever any physical condition that might affect the stability of a project structure has been discovered or is anticipated. The instrumentation must be satisfactory to the Regional Engineer and may include, for example, instruments to monitor movement of joints, foundation or embankment deformation, seismic effects, hydrostatic pore pressures, structural cracking, or internal stresses on the structure.

(b) If an applicant or licensee discovers any condition affecting the safety of the project or project works during the course of construction or operation, the applicant or licensee must install and maintain any monitoring devices and instruments that may be required by the Regional Engineer or other authorized Commission representative to monitor that condition.

§ 12.42 Warning and safety devices.

To the satisfaction of, and within a time specified by, the Regional Engineer, an applicant or licensee must install, operate, and maintain any signs, lights, sirens, barriers, or other safety devices that may reasonably be necessary or desirable to warn the public of fluctuations in flow from the project or otherwise to protect the public in the use of project lands and waters.

§ 12.43 Power and communication lines and gas pipelines.

(a) A licensee must take all reasonable precautions, and comply with all reasonable specifications that may be provided by the Regional Engineer, to ensure that any power or communication line or gas pipeline that is located over, under, or in project waters does not obstruct navigation for recreational or commercial purposes or otherwise endanger public safety.

(b) Clearances between any power or communication line constructed after March 1, 1981 and any vessels using project waters must be at least sufficient to conform to any applicable requirements of the National Electrical Safety Code in effect at the time the power or communication line is constructed.

(c) The Regional Engineer may require a licensee or applicant to provide signs at or near power or communication lines to advise the public of the clearances for any power or communication lines located over, under, or in project waters.

§ 12.44 Testing spillway gates.

(a) *General requirement.* An applicant or licensee must make adequate provision, to the satisfaction of the Regional Engineer or other authorized Commission representative, to ensure that all spillway gates are operable at all times, particularly during adverse weather conditions.

(b) *Annual test.* (1) At least once each year, each spillway gate at a project must be operated to spill water, either during regular project operation or on a test basis.

(2) If an applicant or licensee does not operate each spillway gate on a test basis during the periodic inspec-

tion by the Commission staff, the applicant or licensee must submit to the Regional Engineer at least once each year a written statement, verified in accordance with § 12.13, that each spillway has been operated at least once during the twelve months preceding the inspection.

(c) *Load-test of standby power.* (1) An applicant or licensee must load-test the standby emergency power for spillway gate operation at regular intervals, but not less than once during each year, and submit to the Regional Engineer, at least once each year, a written statement, verified in accordance with § 12.13, describing the intervals at which the standby emergency power was load-tested during the year preceding the inspection.

(2) The Commission staff may direct that a spillway gate be operated using standby emergency power during the periodic inspection.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

Sec.
16.1 Applicability, purpose, and definitions.
16.2 Public notices of projects under expiring license.
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16.13 Acceptance for filing or rejection of application.
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AUTHORITY: Federal Power Act, 16 U.S.C. 791a-825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. 99-495; Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

SOURCE: Order 384, 34 FR 12272, July 2 1969, unless otherwise noted.

§ 16.1 Applicability, purpose, and definitions.

(a) The provisions of this Part apply to projects subject to sections 14 and 15 of the Federal Power Act, as amended.

(b) The provisions of §§ 16.2, 16.3, 16.4, 16.5, 16.7, 16.8, 16.9, 16.10, 16.11, 16.12, and 16.13 of this Part implement the amendments of sections 7(c), 14, and 15 of the Federal Power Act enacted by Pub. L. No. 90-451, approved August 3, 1968.

(c) The provisions of §§ 16.14, 16.15 and 16.16 of this Part implement the amendments of section 15 of the Federal Power Act enacted by section 4 of the Electric Consumer Protection Act of 1986 ("ECPA"), Pub. L. No. 99-495, approved October 16, 1986.

(d) To the extent that the provisions of §§ 16.14, 16.15, and 16.16 of this Part are inconsistent with the other provisions of this Part, the provisions of §§ 16.14, 16.15, and 16.16 are controlling.

(e) *Definitions.* (1) "New license" means a license for a power project issued to the existing licensee or a new licensee upon the expiration of the existing license.

(2) "Non-power license" means a license for a nonpower project.

[Order 467, 52 FR 11039, Apr. 7, 1987]

§ 16.2 Public notices of projects under expiring license.

In order that there should be adequate notice and opportunity to file timely applications for a license, the Commission's Secretary will give notice of the expiration of license of a project (except transmission line and minor projects) 5 years in advance thereof in the same manner as provided in section 4(f) of the Act. The Secretary shall upon promulgation of the rules herein give notice, as provided in section 4(f) of the Act, of all whose license terms have expired since January 1, 1968, or which will expire within years of the effective date of this ule. In addition, the Commission each year will publish in its annual report and in the Federal Register a table howing the projects which will expire during the succeeding 5 years. The able will list these licenses according o their expiration dates and will contain the following information: (a) License expiration date; (b) licensee's name; (c) project number; (d) type of principal project works licensed, e.g., dam and reservoir, powerhouse, transmission lines; (e) location by State, county, and stream; also by city or nearby city when appropriate; and (f) plant installed capacity.

§ 16.3 When to file.

(a) An existing licensee must file an application for a "new license" or "nonpower license" or a statement of intention not to file an application for a "new license" no earlier than 5 years and no later than 3 years prior to the expiration of its license, except that, where the license will expire within 3½ years of the issuance of this part, such applications or statements shall be filed within 6 months from the effective date of this part. Applicants which have applications pending which were filed under previous Commission regulations shall supplement their applications in accordance with pertinent provisions of this part within 6 months of the effective date of this part.

(b) Any other person or municipality may file an application for a "new license" or "non-power license" within 5 years of the expiration of the license, but in no event, unless authorized by the Commission, later than 6 months after issuance of notice of the filing of an application or statement by the licensee under § 16.4 or 2½ years before the expiration of the license, whichever is earlier.

(c) Any application submitted after the expiration of the time specified herein for filing must be accompanied by a motion requesting permission to file late, which motion shall detail the reasons of good cause why the application was not timely filed and how the public interest would be served by its consideration.

§ 16.4 Notice upon filing of application.

When any timely application or statement within the meaning of § 16.3 is received, or when the Commission grants any motion for consideration of a late filed application, notice of receipt thereof will be furnished the applicant, and public notice will be given in the same manner as provided in sections 4(f) and 15(b) of the Act (49 Stat. 838; 41 Stat. 1072; 82 Stat. 616; 16 U.S.C. 797, 808) § 2.1 and Subpart M of Part 385 of this chapter, the Fish and Wildlife Coordination Act, 48 Stat. 401, as amended, 16 U.S.C. 661 et seq., and by publication in the Federal Register.

[Order 384, 34 FR 12272, July 25, 1969, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 16.5 Annual licenses.

No application for annual license need be filed nor will such application be accepted under section 15 of the Act. An existing licensee making timely filing for a new license will be deemed to have filed for an annual license. If the Commission has not acted upon an application by licensee for a new license at the expiration of the license term, by the issuance of an order granting, denying or dismissing it, an annual license shall be issued by notice of the Secretary.

§ 16.7 Application for nonpower license.

Each application for a "non-power license" must conform to the requirements of § 4.51 of this chapter and must include the information specified in paragraphs (a) through (c) of this section. The application and all accompanying exhibits must be filed in accordance with § 4.31 of this chapter.

(a) Applicant shall furnish a description of the nonpower purpose for which the project is to be utilized and a showing of how such use conforms with a comprehensive plan for improving or developing a waterway or waterways for beneficial uses, including a statement of the probable impact which conversion of the project to nonpower use will have on the power supply of the system served by the project.

(b) Applicant shall identify the State, municipal, interstate or Federal agency, if any, which is authorized or willing to assume regulatory supervision over the land, waterways and facilities to be included within the non-power project. (If there is such an agency, applicant shall forward one copy of the application to such agency.)

(c) Applicant shall submit a proposal for the removal or other disposition of power facilities of the project.

A "non-power license" shall be effective until such time as in the judgment of the Commission a State, municipal, interstate, or Federal agency is authorized and willing to assume regulatory supervision over the land, waterways, and facilities included within the "non-power license" or until the project structures are removed. Such State, municipal, interstate or Federal agency may petition the Commission for termination of a "non-power license" at any time. Where the existing project is located on the public lands or reservations of the United States, and there is no application for relicensing as a power project either by the original licensee or some other entity, or a takeover recommendation, the Commission may, in its discretion, and upon a showing by the agency having jurisdiction over the lands or reservations that it is prepared to assume requisite regulatory supervision for the nonpower use of the project, terminate the proceeding without issuing any license for nonpower use.

[Order 384, 34 FR 12272, July 25, 1969, as amended by Order 501, 39 FR 2267, Jan. 18, 1974; Order 184, 46 FR 55944, Nov. 13, 1981]

§ 16.8 Departmental recommendation for takeover.

A recommendation that the United States exercise its right to take over a project may be filed by any Federal department or agency no earlier than 5 years and no later than 2 years prior to the expiration of the license term; *Provided, however,* That such recommendation shall not be filed later than 9 months after the issuance of a notice of application for a new license. Departments or agencies filing such recommendations shall thereby become parties to the relicensing-takeover proceeding. An original and 14 copies o the recommendation shall be filed together with one additional copy fo each interested State commission. Th recommendation shall specify th project works which would be take over by the United States, shall include a detailed description of the proposed Federal operation of th project, including any plans for its redevelopment and shall indicate ho take over would serve the public interest as fully as non-Federal development and operation. It shall also include a statement indicating whethe the agency making the recommendation intends to undertake operation o the project. A copy of the recommendation shall be served upon the licensee by the Commission's Secretary. An applicant for a new license covering al or part of the project involved in th takeover recommendation shall hav 120 days within which to serve a rep to the recommendation upon the Commission with copies to any parties i the proceeding.

§ 16.9 Commission recommendation t Congress.

If the Commission, after notice an opportunity for hearing conclude upon departmental recommendation, o proposal of any party, or its ow motion, that the standards of sectio 10(a) of the Act would best be served b a project whose license is expiring b taken over by the United States, it wil issue its findings and recommendations to this, effect, and after an modification thereof, upon consideration of any application for reconsideration, made in conformity with th provisions of § 385.713 of this chapte governing applications for rehearing forward copies of its findings and recommendations to the Congress.

[Order 384, 34 FR 12272, July 25, 1969, a amended by Order 225, 47 FR 19056, May 1982]

§ 16.10 Motion for stay by Federal department or agency.

If the Commission does not recommend to the Congress that a projec be taken over, a Federal departmen or agency which has filed a timely rec

nmendation for takeover as provided
this part may, within thirty (30)
ys of issuance of an order granting a
ense, file a motion, with copies to
e parties in the proceeding, before
e Commission requesting a stay of
e license order. Upon the filing of
ch a motion, the license order auto-
atically will be stayed for 2 years
om the date of issuance of the order,
nless the stay is terminated earlier
oon motion of the department or
ency requesting the stay or by
tion of Congress. The Commission
ill notify Congress of any such stay.
pon expiration or termination of the
ay, including any extension thereof
act of Congress, the Commission's
cense order shall automatically
ecome effective in accordance with
s terms. The Commission will notify
ongress of each license order which
as become effective by reason of the
xpiration or termination of a stay.

16.11 Procedures upon congressional authorization of takeover.

A determination whether or not
ere is to be a Federal takeover of a
roject would ultimately be made by
ongress through the enactment of
ppropriate legislation. If Congress
uthorizes takeover, the Secretary will
nmediately give the licensee not less
nan 2 years' notice in writing of such
ction. Within 6 months of issuance of
uch notice the licensee shall present
o the Commission any claim for com-
ensation consistent with the provi-
ions of section 14 of the Federal
ower Act and the regulations of the
ommission.

16.12 Renewal of license for a minor water power project or for a minor part of a water power project not subject to sections 14 and 15 of the Federal Power Act.

A licensee whose minor water power
roject license, or license for a minor
art of a project, is not subject to sec-
ions 14 and 15 of the Act, and who
ishes to continue operation of the
roject after the end of the license
erm, must file an application for a
new license" not later than one year
rior to the expiration of the original
icense, in accordance with § 4.31 of
his chapter. Each application for new license under this section must conform to §§ 4.60 and 4.61 of this chapter.

[Order 185, 46 FR 55952, Nov. 13, 1981]

§ 16.13 Acceptance for filing or rejection of application.

Acceptance for filing or rejection of applications under this part shall be in accordance with the provisions of § 4.31 of this chapter.

§ 16.14 Filing of an application for a new license under ECPA.

An existing licensee or any other person or municipality must file an application for a new license at least 24 months before the expiration of the existing license.

[Order 467, 52 FR 11039, Apr. 7, 1987]

§ 16.15 Notification procedures under section 15 of the Federal Power Act.

(a) *Applicability.* This section applies to a licensee of an existing project subject to sections 14 and 15 of the Federal Power Act.

(b) *Requirement to notify.* In order to notify the Commission under section 15 of the Federal Power Act whether a licensee intends to file or not to file an application for new license, the licensee must file with the Commission an original and fourteen copies of a letter, that contains the following information:

(1) The licensee's name and address.

(2) The project number.

(3) The license expiration date.

(4) An unequivocal statement of the licensee's intention to file or not to file an application for a new license.

(5) The type of principal project works licensed, such as dam and reservoir, powerhouse, or transmission lines.

(6) Whether the application is for a power or nonpower license.

(7) The location of the project by state, county and stream, and, when appropriate, by city or nearby city.

(8) The installed plant capacity.

(9) The location or locations of all the sites where the information required under § 16.16 is available to the public.

(10) The names and mailing addresses of:

(i) Every county in which any part of the project is located, and in which any Federal facility that is used by the project is located;

(ii) Every city, town, Indian tribe, or similar local political subdivision:

(A) In which any part of the project is located and any Federal facility that is used by the project is located, or

(B) That has a population of 5,000 or more people and is located within 15 miles of the project dam,

(iii) Every irrigation district, drainage district, or similar special purpose political subdivision:

(A) In which any part of the project is located and any Federal facility that is used by the project is located, or

(B) That owns, operates, maintains, or uses any project facility or any Federal facility that is used by the project; and

(iv) Every other political subdivision in the general area of the project that there is reason to believe would be likely to be interested in, or affected by, the notification.

(c) *When to notify.* (1) Except as provided in paragraph (c)(2) of this section, if a license expires on or after October 17, 1992, the licensee must notify the Commission as required in paragraph (b) of this section at least five years, but no more than five and one-half years, before the existing license expires.

(2) The requirement in paragraph (c)(1) of this section does not apply if a licensee filed notice more than five and one-half years before its existing license expired and before the effective date of this rule.

(d) *Commission notice.* Upon receipt of the notification required under paragraph (b) of this section, the Commission will provide notice of the licensee's intent to file or not to file an application for a new license by:

(1) Publishing notice in the FEDERAL REGISTER;

(2) Publishing notice once every week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated; and

(3) Notifying appropriate Federal and state resource agencies and Indian tribes by mail.

[Order 496, 53 FR 15810, May 4, 1988]

§ 16.16 Information to be made available to the public at the time of notification of intent under section 15(b) of the Federal Power Act.

(a) *Applicability.* This section applies to a licensee of an existing project subject to sections 14 and 15 of the Federal Power Act.

(b) *Requirement to make information available.* A licensee must make the information specified in paragraph (d) of this section reasonably available to the public for inspection and reproduction, from the date on which the licensee notifies the Commission pursuant to § 16.15(b) of this part until the date any relicensing proceeding for the project is terminated.

(c) *Requirement to supplement information.* A licensee must supplement the information it is required to make available under the provisions of paragraph (d) with any additional information developed after the filing of a notice of intent.

(d) *Information to be made available.* A licensee must make the following information regarding its existing project reasonably available to the public as provided in paragraph (b) of this section:

(1) The following construction and operation information:

(i) The original license application and the order issuing the license and any subsequent license application and subsequent order issuing a license for the existing project, including

(A) Approved Exhibit drawings, including as-built exhibits,

(B) Any order issuing amendments or approving exhibits, and

(C) Any order issuing annual licenses for the existing project;

(ii) All data relevant to whether the project is and has been operated in accordance with the requirements of each license article, including minimum flow requirements, ramping rates, reservoir elevation limitations and environmental monitoring data;

(iii) A compilation of project generation and respective outflow with time

crements not to exceed one hour,
nless use of another time increment
n be justified, for the period begin-
ng five years before the filing of a
otice of intent;
(iv) Any public correspondence relat-
g to the existing project;
(v) Any report on the total actual
nual generation and annual oper-
ion and maintenance costs for the
eriod beginning five years before the
ing of a notice of intent;
(vi) Any reports on original project
sts, current net investment, and
ailable funds in the amortization re-
rve account;
(vii) A current and complete electri-
l single-line diagram of the project
owing the transfer of electricity
om the project to the area utility
stem or point of use; and
(viii) Any bill issued to the existing
ensee for annual charges under sec-
on 10(e) of the Federal Power Act.
(2) The following safety and struc-
ral adequacy information:
(i) The most recent emergency
tion plan for the project or a letter
empting the project from the emer-
ncy action plan requirement;
(ii) Any independent consultant's re-
rts required by Part 12 of the Com-
ission's regulations and filed on or
ter January 1, 1981;
(iii) Any report on operation or
aintenance problems, other than
utine maintenance, occurring within
e five years preceding the filing of a
otice of intent or within the most
cent five-year period for which data
ists, and associated costs of such
oblems under the Commission's Uni-
rm System of Accounts;
(iv) Any construction report for the
isting project; and
(v) Any public correspondence relat-
g to the safety and structural ade-
acy of the existing project.
(3) The following fish and wildlife
sources information:
(i) Any report on the impact of the
oject's construction and operation
fish and wildlife resources;
(ii) Any existing report on any
reatened or endangered species or
itical habitat located in the project
ea, or affected by the existing
oject outside the project area;

(iii) Any fish and wildlife management plan related to the project area prepared by the existing licensee or any resource agency; and

(iv) Any public correspondence relating to the fish and wildlife resources within the project area.

(4) The following recreation and land use resources information:

(i) Any report on past and current recreational uses of the project area;

(ii) Any map showing recreational facilities and areas reserved for future development in the project area, designated or proposed wilderness areas in the project area, Land and Conservation Fund lands in the project area, and designated or proposed Federal or state wild and scenic river corridors in the project area;

(iii) Any documentation listing the entity responsible for operating and maintaining any existing recreational facilities in the project area; and

(iv) Any public correspondence relating to recreation and land use resources within the project area.

(5) The following cultural resources information:

(i) Except as provided in paragraph (d)(5)(ii) of this section, a licensee must make available:

(A) Any report concerning documented archaeological resources identified in the project area;

(B) Any report on past or present use of the project area and surrounding areas by Native Americans; and

(C) Any public correspondence relating to cultural resources within the project area.

(ii) A licensee must delete from any information made available under paragraph (d)(5)(i) of this section, specific site or property locations the disclosure of which would create a risk of harm, theft, or destruction of archaeological or Native American cultural resources or to the site at which the resources are located, or would violate any Federal law, including the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470w-3, and the National Historic Preservation Act of 1966, 16 U.S.C. 470hh.

(6) The following energy conservation information under section 10(a)(2)(C) of the Federal Power Act, related to the licensee's efforts to con-

serve electricity or to encourage conservation by its customers including:

(i) Any plan of the licensee;

(ii) Any public correspondence; and

(iii) Any other pertinent information relating to a conservation plan.

(e) *Form, place, and hours of availability, and cost of reproduction.* (1) A licensee must make the information specified in paragraph (d) of this section available to the public for inspection:

(i) At its principal place of business or at any other location or locations that are more accessible to the public, provided that all of the information is available in at least one location;

(ii) During regular business hours; and

(iii) In a form that is readily accessible, reviewable, and reproducible.

(2) Except as provided in paragraph (d)(3) of this section, a licensee must make requested copies of the information specified in paragraph (c) of this section available either:

(i) At its principal place of business or at any other location or locations that are more accessible to the public, after obtaining reimbursement for reasonable costs of reproduction; or

(ii) Through the mail, after obtaining reimbursement for postage fees and reasonable costs of reproduction.

(3) A licensee must make requested copies of the information specified in paragraph (d) of this section available to the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources without charge for the costs of reproduction or postage.

(f) *Unavailability of required information.* Anyone may file a petition with the Commission requesting access to the information specified in paragraph (d) of this section if it believes that a licensee is not making the information reasonably available for public inspection or reproduction. The petition must describe in detail the basis for the petitioner's belief.

(g) *Public correspondence.* A licensee may compile and make available in one file all the public correspondence required to be made available for inspection and reproduction by § 16.16(d)(1)(iv), (d)(2)(v), (d)(3)(i (d)(4)(iv), and (d)(6)(ii).

[Order 496, 53 FR 15810, May 4, 1988]

PART 20—AUTHORIZATION OF THE ISSUANCE OF SECURITIES BY LICENSEES AND COMPANIES SUBJECT TO SECTIONS 19 AND 20 OF THE FEDERAL POWER ACT

Sec.
20.1 Applicability.
20.2 Regulation of issuance of securities.

§ 20.1 Applicability.

(a) *Without special proceeding for regulation.* Every security issue within the scope of the jurisdiction conferred upon the Commission by sections 19 and 20 of the Federal Power Act shall be subject to the provisions of § 20.2 except a security issue by a person organized and operating in a State under the laws of which its security issues are regulated by a State commission or by any one described in subsection 201(f) of the act. No other security issue within the scope of sections 19 and 20 shall be subject to § 20.2 except as provided in paragraph (b) of this section.

(b) *Reservation of possibility of regulation in other cases.* Not later than 10 days prior to any proposed security issuance which is within the scope of section 19 or section 20 of the act, but excepted by paragraph (a) of this section, any person or state entitled to do so under section 19 or section 20, may file a complaint or request in accordance with the applicable rules of the Commission, or the Commission upon its own motion may by order initiate a proceeding, raising the question whether issuance of such security should be subjected by Commission order to the provisions of § 20.2. After notice of such filing or order, and until such request or complaint is denied or dismissed or the proceeding initiated by such order is terminated without subjecting the issuance of the security to the provisions of § 20.2, the security in question shall not be issued except it be issued subject to and in compliance with § 20.2.

(Secs. 3(16), 19, 20, 41 Stat. 1063, 1073; secs. 201, 309, 49 Stat. 838, 858; 16 U.S.C. 796 (16), 812, 813, 825k)

[Order 170, 19 FR 2013, Apr. 8, 1954]

§ 20.2 Regulation of issuance of securities.

The licensee or other person issuing or proposing to issue any security subjected to this section by or pursuant to § 20.1, shall be subject to and shall comply with the same requirements as the Commission would administer to it if it were a public utility issuing the security within the meaning and subject to the requirements of section 204 of the Act and Part 34 of this subchapter.

(Secs. 3(16), 19, 20, 41 Stat. 1063, 1073; secs. 201, 309, 49 Stat. 838, 858; 16 U.S.C. 796 (16), 812, 813, 825k)

[Order 170, 19 FR 2013, Apr. 8, 1954]

CROSS REFERENCE: For applications for authorization of the issuance of securities or the assumption of liabilities, see Part 34 of this chapter.

PART 24—DECLARATION OF INTENTION

§ 24.1 Filing.

An original and ten conformed copies of each declaration of intention under the provisions of section 23(b) of the Act shall be filed. The declaration shall give the name and post office address of the person to whom correspondence in regard to it shall be addressed, and shall be accompanied by:

(a) A brief description of the proposed project and its purposes, including such data as maximum height of the dams, a storage capacity curve of the reservoir or reservoirs showing the maximum, average, and minimum operating pool levels, the initial and ultimate installed capacity of the project, the rated horsepower and head on the turbines, and a curve of turbine discharge versus output at average and minimum operating heads.

(b)(1) A general map (one tracing and three prints) of any convenient size and scale, showing the stream or streams to be utilized and the approximate location and the general plan of the project.

(2) Also a detailed map of the proposed project area showing all Federal lands, and lands owned by States, if any, occupied by the project.

(3) A profile of the river within the vicinity of the project showing the location of the proposed project and any existing improvements in the river.

(4) A duration curve and hydrograph for the natural and proposed regulated flows at the dam site. Furnish references to the published stream flow records used and submit copies of any unpublished records used in preparation of these curves.

(c) (1) A definite statement of the proposed method of utilizing storage or pondage seasonally, weekly and daily, during periods of low and normal flows after the plant is in operation and the system load has grown to the extent that the capacity of the plant is required to meet the load. For example, furnish:

(i) Hydrographs covering a 10-day low water period showing the natural flow of the stream and the effect thereon caused by operations of the proposed power plant;

(ii) Similar hydrographs covering a 10-day period during which the discharge of the stream approximates average recorded yearly flow, and

(iii) Similar hydrographs covering a low water year using average monthly flows.

(2) A system load curve, both daily and monthly, and the position on the load curve that the proposed project would have occupied had it been in operation.

(3) A proposed annual rule of operation for the storage reservoir or reservoirs.

(Secs. 23, 309, 49 Stat. 841, 858; 16 U.S.C. 816, 817, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Order 175, 19 FR 5217, Aug. 18, 1954, as amended by Order 260, 28 FR 315, Jan. 11, 1963]

PART 25—APPLICATION FOR VACATION OF WITHDRAWAL AND FOR DETERMINATION PERMITTING RESTORATION TO ENTRY

Sec.

25.1 Contents of application.
25.2 Hearings.

§ 25.1 Contents of application.

Any application for vacation of a reservation effected by the filing of an application for preliminary permit or license, or for a determination under the provisions of section 24 of the Act permitting restoration for location, entry, or selection under the public lands laws, or such lands reserved or classified as power sites shall, unless the subject lands are National Forest Lands, be filed with the Bureau of Land Management, Department of the Interior, at the Bureau's office in Washington, D.C. or at the appropriate regional or field office of the Bureau. If the lands included in such application are National Forest Lands, the application shall be filed with the U.S. Forest Service, Department of Agriculture at the Forest Service's office in Washington, D.C., or at the appropriate regional office of the U.S. Forest Service. Such application shall contain the following data: (a) Full name of applicant; (b) post-office address; (c) description of land by legal subdivisions, including section, township, range, meridian, county, State, and river basin (both main and tributary) in which the land is located; (d) public land act under which entry is intended to be made if land is restored to entry; (e) the use to which it is proposed to put the land, and a statement as to its suitability for the intended use.

(Secs. 24, 309, 41 Stat. 1075, as amended; 49 Stat. 858; 16 USC. 818, 825h)

[Order 175, 19 FR 5218, Aug. 18, 1954, as amended by Order 346, 32 FR 7495, May 20, 1967]

CROSS REFERENCE: For entries subject to section 24 of the Federal Power Act, see also 43 CFR Subpart 2320.

§ 25.2 Hearings.

A hearing upon such an application may be ordered by the Commission in its discretion and shall be in accordance with the provisions of Subpart E of Part 385 of this chapter.

NOTE 1: On April 17, 1922, the Commission made the following general determination:

(a) That where lands of the United States have heretofore been, or hereafter may be, reserved or classified as power sites, such reservation or classification being made solely because such lands are either occupied by power transmission lines or their occupancy and use for such purposes has been applied for or authorized under appropriate laws of the United States, and such lands have otherwise no value for power purposes and are not occupied in trespass, the Commission determines that the value of such lands so reserved or classified, or so applied for or authorized, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, subject to the reservation of section 24 of the Federal Water Power Act (41 Stat. 1075; 16 U.S.C. 818).

(b) That when notice is given to the Secretary of the Interior of reservations made under the provisions of section 24 of the Federal Water Power Act, such notice shall indicate what lands so reserved, if any, may in accordance with the determination of the preceding paragraph, be declared open to location, entry, or selection, subject to the reservation of said section 24. Second Annual Report, page 128.

NOTE 2: On February 16, 1937, the Commission took the following action:

CONSENT TO ESTABLISHMENT OF GRAZING DISTRICTS, ISSUANCE OF GRAZING PERMITS, AND LEASING FOR GRAZING PURPOSES UNDER THE ACT OF JUNE 28, 1934, AS AMENDED, GOVERNMENT LANDS RESERVED FOR POWER PURPOSES

Upon request under date of November 2 1936, by the acting director, Division of Grazing, Department of the Interior, for consent of the Commission, pursuant to the act of June 28, 1934 (48 Stat. 1269), to the establishment of grazing districts and the issuance of grazing permits on lands of the United States withdrawn, classified, or otherwise reserved for power purposes, except in those instances where grazing will interfere with such purposes; and

Upon request under date of December 7, 1936, by the Acting Secretary of the Interior for consent of the Commission, pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended by the Act of June 26, 1936 (49 Stat. 1976), to the leasing under section 15 of said Act as amended, of isolated tracts of lands of the United States, withdrawn for power purposes:

The Commission upon consideration of the matter finds and determines: That the establishment of grazing districts, the issuance of grazing permits, and the leasing for grazing purposes, under said Act as amended, of lands of the United States theretofore or thereafter withdrawn, classified or otherwise reserved for power purposes, but not including lands embraced within the project area of any power project theretofore licensed by the Commission or otherwise authorized by the United States, will not injure or destroy the value of such lands for the purposes of power development nor otherwise abridge the jurisdiction of the Commission; Provided, That such grazing districts shall be established and such permits and leases for grazing permits issued subject to the following conditions:

(1) That the establishment of the grazing district or the issuance of the grazing permit or lease for grazing purposes shall in no wise diminish or affect the jurisdiction of the Commission at any time to issue permits or licenses pursuant to the provisions of the Federal Power Act (49 Stat. 838; 16 U.S.C., Sup., 791-819); and that the issuance by the Commission of a license shall immediately and automatically terminate such grazing district, permit, or lease for grazing purposes as to all lands within the project area described in such license;

(2) That the establishment of the grazing district or the issuance of the grazing permit or lease for grazing purposes involving lands withdrawn for power purposes shall in no wise disminish or affect the jurisdiction of the Commission at any time to make further determinations that the value of any such lands for the purposes of power development will not be injured or destroyed by location entry or selection, as provided by section 24 of the Act and none of such lands shall be declared open, otherwise than as hereinbefore provided, to location, entry or selection except upon such further determination by the Commission; and any such further determination shall immediately and automatically terminate such grazing district, permit, or lease for grazing purposes as to any lands involved in such further determination.

Now, therefore, the Commission consents to the establishment of such grazing districts and the issuance of grazing permits and leases for grazing purposes of lands of the United States reserved for power purposes subject to the conditions hereinabove set out;

Provided, however, That this determination and consent shall be effective for lands embraced within grazing districts, as of the date of the establishment of such districts, and for isolated tracts of lands leased for grazing purposes, it shall be in effect when such leases are issued, provided that notice thereof is received by this Commission from the Bureau of Land Management, Department of the Interior, within 30 days thereafter, such notice to include full legal description of the lands, withdrawn for power purposes which are involved.

(Secs. 24, 308, 39, 41 Stat. 1075, as amended, 40 Stat. 858; 16 U.S.C. 818, 825g, 825h)

[Order 141, 12 FR 8493, Dec. 19, 1947]

CROSS REFERENCE: For regulations of the Bureau of Land Management relating to grazing, see index to Title 43 CFR Part 4000-End.

[Order 141, 12 FR 8493, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

PART 32—INTERCONNECTION OF FACILITIES; EMERGENCIES; TRANSMISSION TO FOREIGN COUNTRY

APPLICATION FOR AN ORDER DIRECTING THE ESTABLISHMENT OF PHYSICAL CONNECTION OF FACILITIES

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APPLICATIONS FOR COMMISSION EMERGENCY AUTHORIZATION PURSUANT TO SECTION 202(c) OF THE FEDERAL POWER ACT

32.60 Applicability of section 202(c).
32.61 Application under 202(c), filing fees, exhibits and other administrative matters.
32.62 Emergencies related to inadequate supplies of fuel or energy for electric generating plants.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978);

Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 141, 12 FR 8494, Dec. 19, 1947, unless otherwise noted.

EDITORIAL NOTE: For an order deferring billing for annual charges due to a Supreme Court ruling, see 38 FR 3401, Feb. 6, 1973.

APPLICATION FOR AN ORDER DIRECTING THE ESTABLISHMENT OF PHYSICAL CONNECTION OF FACILITIES

§ 32.1 Contents of application; filing fee.

Every application under section 202(b) of the Act shall be accompanied by the fee prescribed in Part 381 of this chapter and shall set forth the following information:

(a) The exact legal name of the applicant and of all persons named as parties in the application.

(b) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed.

(c) The person named in the application who is a public utility subject to the act.

(d) The State or States in which each electric utility named in the application operates, together with a brief description of the business of and territory, by counties and States, served by such utility.

(e) Description of the proposed interconnection, showing proposed location, capacity and type of construction.

(f) Reasons why the proposed connection, of facilities will be in the public interest.

(g) What steps, if any, have been taken to secure voluntary interconnection under the provisions of section 202(a) of the Act.

[Order 141, 12 FR 8494, Dec. 19, 1947, as amended by Order 427, 36 FR 5596, Mar. 25, 1971; Order 435, 50 FR 40357, Oct. 3, 1985]

§ 32.2 Required exhibits.

There shall be filed with the application and as a part thereof the following exhibits:

Exhibit A. Statement of the estimated capital cost of all facilities required to establish the connection, and the estimated annual cost of operating such facilities.

Exhibit B. A general or key map on a scale not greater than 20 miles to the inch showing, in separate colors, the territory served by each utility, and the location of the facilities used for the generation and transmission of electric energy, indicating on said map the points between which connection may be established most economically.

§ 32.3 Other information.

The Commission may require additional information when it appears to be pertinent in a particular case.

§ 32.4 Form and style; number of copies.

An original and six conformed copies of an application under §§ 32.1 to 32.4 must be filed.

[Order 342, 32 FR 6622, Apr. 29, 1967, as amended by Order 225, 47 FR 19056, May 3 1982]

APPLICATION FOR EMERGENCY CONNECTIONS OF FACILITIES

§ 32.20 Definition of emergency.

"Emergency", as used in section 202(d) of the Federal Power Act, is defined to mean the failure of facilities for the generation or transmission of electric energy caused by breakdown, weather conditions, acts of God, or other unforeseen occurrences, not reasonably within the power of the utility affected to prevent, resulting in the cutting off or curtailment of the electric service, or rendering such utility unable to provide adequate service for its customers.

§ 32.21 Reports of temporary connections.

(a) When, due to an emergency as defined in §§ 32.20 to 32.24, inclusive, any temporary connection of transmission facilities is made, all persons whose transmission facilities are thus temporarily interconnected shall give written notice in triplicate thereof to the Commission within 15 days from the date when such temporary connection was made, and state in said notice the reason for such temporary connection, and the locatin and character of each interconnection. Likewise, a written notice in triplicate shall be given by such parties to the Commission of the fact and date of discontinuance of such temporary connection within 15 days after such discontinuance. In cases where temporary connections are continued for more than 10 days, or temporary reconnections are made, reports in triplicate shall thereafter be made to the Commission at the end of each week as to:

(1) The location and character of each interconnection being maintained.

(2) The amount of electrical energy received and transmitted over each interconnection during each day of the week, and the consideration received or paid therefor.

(3) What steps have been taken or are being taken to relieve the conditions that made the emergency connection necessary.

(b) Every such temporary emergency connection shall be discontinued and all such temporary construction removed or otherwise disposed of, upon the termination of the emergency, unless application is made as hereinafter provided for permanent connection for emergency use.

§ 32.22 Application for permanent connection for emergency use; contents; form and style; filing fee; number of copies.

Application for Commission approval of a permanent connection for emergency use only shall be accompanied by the fee prescribed in Part 381 of this chapter and shall conform with the requirements of §§ 32.1 to 32.4, inclusive, and, in addition, shall state in full the reasons why such permanent connection for emergency use is necessary in the public interest.

[Order 427, 36 FR 5596, Mar. 25, 1971, as amended by Order 435, 50 FR 40357, Oct. 3, 1985]

§ 32.23 Reports of emergency use of permanent connections.

Where the Commission has authorized permanent connection for emergency use only, weekly reports shall be made to the Commission of any emergency use of such facilities showing:

(a) The location of each interconnection in service.

(b) The date such use commenced and ended.

(c) Full facts and details making the use of the interconnection necessary.

(d) The amount of electrical energy received and transmitted over each interconnection during each day of the week, and the consideration received or paid therefor.

(e) What steps have been taken or are being taken to relieve the condition that made the emergency use of the connection necessary.

APPLICATION FOR AUTHORIZATION TO TRANSMIT ELECTRIC ENERGY TO A FOREIGN COUNTRY

§ 32.30 Who shall apply.

(a) The owner of a source of supply of electric energy who proposes to transmit any portion of such energy from the United States to a foreign country or who has entered or proposes to enter into a contract for the sale of electric energy to be so transmitted, and the transmitter thereof, are necessary parties to an application for the authorization sought under this rule.

(b) In connection with applications under § 32.30 to 32.38, inclusive, attention is directed to the provisions of §§ 32.50 to 32.52, inclusive, relative to applications for Presidential permits for the construction, operation, maintenance, or connection, at the borders of the United States, of facilities for the transmission of electric energy between the United States and a foreign country in compliance with Executive Order No. 8202, dated July 13, 1939.

EDITORIAL NOTE: Executive Order 8202 was revoked and superseded by E.O. 10485, Sept. 3, 1953, 18 FR 5397, 3 CFR, 1949-1953 Comp., p. 970.

§ 32.31 Time of filing.

Each application shall be made at least 30 days in advance of the proposed transmission, except where otherwise ordered by the Commission for good cause shown, and the original application shall be signed and verified under oath by an executive officer or officers of the applicant or applicants having knowledge of the matters therein set forth.

§ 32.32 Contents of application.

Every application shall set forth in the order indicated the following:

(a) The exact legal name of the applicant.

(b) The name, title, and post-office address of the person to whom correspondence in regard to the application shall be addressed.

(c) The State or Territory under the laws of which the applicant was organized. If incorporated under the laws of, or authorized to operate in more than one State, all pertinent facts should be included.

(d) The name of the purchaser of the energy, its proposed use in the foreign country, and the rates proposed to be charged to the foreign purchaser together with rates charged by the applicant for similar service if rendered in the United States.

(e) A statement of the source, amount, and nature of the energy to be so transmitted, the point of delivery, voltage, phase, and frquency, and the facilities to be used both in the generation and transmission of such energy.

(f) The amount of electric energy transmitted into the United States from a foreign country by the applicant, its source and nature, how and where it is used, and the rates paid for such energy.

(g) Statement of the reasons why the proposed transmission would not impair the sufficiency of electric supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

§ 32.33 Required exhibits.

There shall be filed with the application and as a part thereof the following exhibits:

Exhibit A. Copy of agreement under which the enegy is to be transmitted and all other written instruments pertaining thereto. (Every agreement entered into in the future shall contain a provision that in case of war or other emergency, as provided in section 202 of the Act, the same is terminable upon the order of the Commission.)

Exhibit B. A showing, including signed opinion of counsel, that such transmission of energy is within the corporate powers of the applicant, and that the applicant has complied with State laws.

Exhibit C. A general or key map on a scale not greater than 20 miles to the inch, showing the location of the facilities used for the generation and transmission of electric energy to be transmitted. Whenever possible, this map should not be over 30 inches in its largest dimension. The map should indicate with particularity the facilities owned by the owner of the source of supply and those owned by the transmitter of the electric energy.

Exhibit D. Where an applicant resides or has its principal office without the United States, such applicant shall designate by irrevocable power of attorney an agent residing within the United States upon whom service of notice and process with respect to transmission of electric energy may be had. copies of such power of attorney shall be furnished, one of which shall be verified.

Exhibit E. Photostatic, or certified copy of articles of incorporation and bylaws of applicant company.

Exhibit F. A detailed statement of the financial and corporate relationship existing between applicant and any other person or corporation.

Any exhibit required by this section already on file with the Commission may be incorporated by reference.

§ 32.34 Other information; exceptions.

Where the application is for authority to export less than 1,000,000 kilowatt-hours annually, applicants need not furnish the information called for in § 32.32(e), and § 32.33, exhibit C. The applicant shall be prepared within 2 weeks after filing the application to furnish such additional information as the Commission may deem pertinent.

§ 32.35 Transferability.

(a) Authorization to transmit electric energy from the United States to a foreign country granted by order of the Commission under §§ 32.30 to 32.38, inclusive, pursuant to section 202(e) of the Federal Power Act shall not be transferable or assignable. The Commission order granting the authorization may, however, provide that the authorization shall continue in effect temporarily for a reasonable time thereafter in the event of the involuntary transfer of facilities used thereunder by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for permanent authorization and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the physical facts relating to sufficiency of supply, rates, and nature of use remain substantially the same as before the transfer and as stated in the initial application for such authorization.

(b) The Commission may also, at any time subsequent to the original order of authorization, from time to time, after opportunity for hearing, make such supplemental orders in the premises as it may find necessary or appropriate.

§ 32.36 Authorization not exclusive.

No authorization granted pursuant to section 202(e) of the act shall be deemed to prevent authorization being granted to any other person to transmit electric energy for the same use, or to prevent any other person from making application for such authorization.

§ 32.37 Form and style; number of copies.

An original and six conformed copies of an application under §§ 32.30 through 32.37 must be filed.

[Order 342, 32 FR 6622, Apr. 29, 1967, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 32.38 Filing rate schedules and annual reports.

Persons authorized to transmit electric energy from the United States shall file all rate schedules, supplements, notices of succession in ownership or operation, notices of cancellation, and certificates of concurrence with respect to such energy in the form and manner spcified in the provisions of §§ 35.1 to 35.16, inclusive, of this chapter.

[Order 271, 28 FR 11404, Oct. 24, 1963]

APPLICATION FOR CONSTRUCTION, OPERATION, MAINTENANCE, OR CONNECTION AT INTERNATIONAL BOUNDARY, OF FACILITIES FOR TRANSMISSION OF ELECTRIC ENERGY

§ 32.50 Who shall apply.

(a) Any person, firm, or corporation contemplating the construction of, or who is operating or maintaining facilities at the borders of the United States, for the transmission of electric energy between the United States and a foreign country, shall file with the Commission an original and eight conformed copies of an application for a Presidential permit, in compliance with Executive Order No. 10485, dated September 3, 1953 (3 CFR, 1949-53 Comp., p. 970).

(b) In connection with applications hereunder, attention is directed to the provisions of §§ 32.30 to 32.38, relative to applications for authorization to transmit electric energy from the United States to a foreign country under section 202(e) of the Federal Power Act.

[Order 141, 12 FR 8494, Dec. 19, 1947, as amended by Order 342, 32 FR 6622, Apr. 29, 1967]

§ 32.51 Contents of application; filing fee.

Every application shall be accompanied by the fee prescribed in Part 36 of this subchapter and shall set forth in the order indicated, the following:

(a) Information regarding applicant:

(1) The exact legal name of applicant;

(2) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed;

(3) If applicant is a corporation: Copy of articles of incorporation and by-laws; the amount and classes of capital stock; nationality of officers, directors and stockholders and the amount and class of stock held by each;

(4) Is applicant company, or its transmission lines, owned wholly or in part by any foreign government or directly, or indirectly subventioned by any foreign government; or, has applicant company any understanding for such ownership by or subvention from any foreign government? If so, give full details;

(b) A general or key map on a scale not greater than 20 miles to the inch, showing the physical location and giving a full description of the facilities employed, or to be employed in the transmission of electric energy between the United States and a foreign country. The map should indicate with particularity the ownership of the facilities at or on each side of the border between United States and the foreign country;

(c) Statement describing every existing contract that applicant has with a foreign government, or private concerns, which in any way relate to the control or fixing of rates for the purchase, sale or transmission of electric energy and which may serve in any way to restrict or prevent competing American companies from extending their activities; also, attach certified copies of such contracts;

(d) Copies of every landing license, or permit, which has been granted applicant, or any predecessor, by a foreign government or by any of its agencies, in connection with the transmission of electric energy between the United States and a foreign country.

[Order 141, 12 FR 8494, Dec. 19, 1947, as amended by Order 427, 36 FR 5596, Mar. 25, 1971]

§ 32.52 Other information.

The applicant shall furnish such additional information, in connection with the application, as the Commission may deem pertinent.

APPLICATIONS FOR COMMISSION EMERGENCY AUTHORITZATION PURSUANT TO SECTION 202(c) OF THE FEDERAL POWER ACT

§ 32.60 Applicability of section 202(c).

Section 202(c) is applicable to all entities which own or operate electric generation, transmission or distribution facilities, regardless of whether they are investor owned, publicly owned or cooperatively owned. All are subject to Commission emergency authority conferred by this section. Initial Commission authorizations under 202(c) shall be for such durations and upon such terms and conditions as specified by the Commission. The Commission retains the right to cancel, modify or otherwise change a 202(c) authorization at any time.

[Order 520, 39 FR 42909, Dec. 9, 1974]

§ 32.61 Application under 202(c), filing fees, exhibits and other administrative matters.

Every application under section 202(c) of the Federal Power Act shall be accompanied by the fee prescribed in Part 381 of this chapter and shall set forth the following information:

(a) The exact legal name of the applicant and of all persons named as parties in the application;

(b) The name, title, and Post Office address of the person to whom correspondence in regard to the application shall be addressed;

(c) The state or states in which each entity named in the application operates, together with a brief description of the business of and territory, by counties and states, served by such entity;

(d) The full title and address of any state regulatory agency which exercises regulatory control of any type over the parties listed in the application;

(e) Reasons why the proposed transfers of power and/or energy will be in the public interst, to include: A description of the problem situation and resoure limitations which require electric power and/or energy transfers; a showing that without additional power or energy transfers the applicant will be unable to maintain electric utility service required in the public interest after allowing for reductions by the receiving applicant of electric load and energy demand that can be practicably accomplished consistent with public health, welfare and safety considerations; a statement of the firm amounts of electric power and energy received from and delivered to other systems under existing contracts (designated by FPC Rate Schedule designations, where applicable), and a showing that additional power and energy cannot be purchased despite diligent best efforts, including the steps, if any, that have been taken to secure voluntary interconnections and energy transfers;

(f) A listing of proposed sources and amounts of power and energy requested to be made available by Commission action. Applications for emergency authorization of the Commission shall be accompanied by a proposal of the applicant to compensate the generating or transmitting systems for the emergency services requested. These proposals shall be specific. Where the applicant proposes to compensate systems for emergency services at rates and charges on file with the Commission pursuant to Part 35 of the Commission's Regulations Under the Federal Power Act, the application shall identify such rate schedules by filing electric utility and FPC rate schedule designation;

(g) Description of proposed temporary electric power interconnection(s), if any, showing proposed location, capacity, and type of emergency services requested. An electrical one-line diagram and a description of the necessary material or equipment shall be included. If no temporary electric interconnection facilities are proposed, comparable information shall be supplied listing all existing interconnection facilities and their electrical power transfer capacity and the type of emergency services requested;

(h) There shall be filed with the application and as a part thereof the following exhibits:

Exhibit A. A general or key map on a scale not greater than 33 miles to the inch showing (FPC Regional Maps properly marked are deemed to be adequate), in separate colors, the territory served be each entity named in the application, and the location of the facilities to be used for the generation and transmission of electric power and energy requested indicating on said map the connection points between systems.

Exhibit B. Statement of the estimated construction costs of any proposed temporary interconnection facilities required of the applicant to implement the 202(c) emergency power transfer. A further statement estimating the expected operations and maintenance costs on an annualized basis shall be included.

(i) An original and six conformed copies of an application under §§ 32.60 to 32.62 shall be filed. Each entity designated as a potential source of emergency assistance in an application filed pursuant to this subsection interested State regulatory commissions having jurisdiction over the "potential source" and/or transmitting utilities, and the Regional Reliability Council for the applicant's area shall, at the time of application, be served with a copy of the application by the applicant;

(j) The persons so designated and served by an applicant shall submit their answers to the Commisison and serve copies thereof on the interested State regulatory commissions and the Regional Reliability Council within 10 calendar days of the date of filing of the application unless otherwise directed by the Commission's Secretary, and as part thereof, they shall analyze the impact of the required power and energy transfers upon their capabilities to provide for loads on their own systems; and

(k) A report to the Commission shall be rendered by the applicant not later than 10 days following the end of each month after a 202(c) authorization is granted. Copies thereof shall simultaneously be served on the interested State regulatory commissions and the Regional Reliability Council. This report shall include the amounts of power and energy received each day, the name of the supplier, preliminary estimates of the associated costs and any other pertinent information requested by the Commission's Secretary.

(l) The Commission may require additional information when it appears to be pertinent in a particular case. See particularly § 32.62 (d) and (e).

[Order 520, 39 FR 42909, Dec. 9, 1974, as amended by Order 520-A, 40 FR 5145, Feb. 4, 1975; Order 225, 47 FR 19056, May 3, 1982; Order 435, 50 FR 40357, Oct. 3, 1985]

§ 32.62 Emergencies related to inadequate supplies of fuel or energy for electric generating plants.

(a) *Applicability.* (1) This paragraph of the Commission Regulations applies specifically to applications covering claimed emergencies that result from a lack of the necessary fuel or energy supplies for electric generating plants. The provisions of this paragraph in no way restrict the Commission's broader authority to act upon any set of circumstances in which it deems that an emergency exists based upon the conditions listed in section 202(c) of the Federal Power Act;

(2) This paragraph shall be applicable for use only by applicant electric systems having electric generating equipment in normal system use whose operation will be adversely affected by a fuel or energy shortage emergency;

(3) Applications required to be filed under this § 32.62, shall, nevertheless, set forth all data as required in § 32.61.

(b) *Additional application information.* Applications for emergency authorization by the Commission by reason of a claimed emergency due to inadequate supplies of fuel or energy shall be accompanied by the following:

(1) Detailed statement of the amounts of firm electric power and energy received and delivered to other systems under existing contracts for the 60 day period preceding the application (designated by FPC Rate Schedule, where applicable).

(c) *Guidelines defining inadequate fuel or energy supply.* An inadequate utility system fuel inventory or energy supply is a matter of managerial and engineering judgment. Fuels in stock, fuels enroute, transportation time and constraints on available storage facilities and other factors must be considered in determining an inadequate fuel inventory. For guideline purposes, a system may be considered to have an inadequate fuel or energy supply capability when one or more of the following conditions exist and the projected energy deficiency upon the applicant's system—without emergency action by this Commission—will equal or exceed 10 percent of the applicant's then normal daily net energy for load, or will cause applicant to be unable to meet its normal peak load requirements based upon use of all of its otherwise available resources, and such energy deficiency will require the applicant to drop loads to ultimate customers:

(1) System coal stocks are reduced to 30 days (or less) of normal burn days and a continued downward trend in stocks is projected;

(2) System residual oil stocks are reduced to 15 days (or less) of normal burn days and a continued downward trend in stocks is projected;

(3) System distillate oil stocks are reduced to 15 days (or less) of normal burn days and a continued downward trend in stocks is projected;

(4) System natural gas deliveries which cannot be replaced by alternate fuels have been or will be reduced 20 percent below normal requirements and no improvement in natural gas deliveries is projected within 30 days;[1]

(5) Delays in nuclear fuel deliveries will extend a scheduled refueling shutdown by more than 30 days; and

(6) Water supplies required for power generation have been or will be reduced 20 percent below normal requirements and no improvement in water supplies is projected within 30 days.

The use of the prescribed criteria do not preclude an applicant from seeking to claim and support an emergency when its stocks of fuel or water exceed the foregoing amounts.

(d) *Factors to be considered by the commission in declaring an emergency.* Among other factors, the Commission, in evaluating an application for emergency power and energy transfers under this § 32.62 will give consideration to the impact of the power and energy transfers on the supplying and transmitting systems. While the conditions of an emergency can vary greatly and, therefore, the Commission cannot be restricted in making decisions that are best suited to the circumstances, it contemplates that emergency power or energy transfers desirably should not result in the dropping of loads of ultimate customers of the supplying utility systems. However, data available to the Commission indicate that voluntary conservation and utility-initiated measures can effect significant reductions in load and energy requirements and consideration of a reasonable and equitable level of such reductions by the supplying system will not be excluded from the Commission's review. The Commission recognizes that power pools and existing industry relationships are a basic tool in resolving energy shortages and the Commission will review the implementation of emergency procedures of individual pools and applicant systems in determining whether to invoke its emergency powers.

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[1] Criteria governing this Commission's statutory duties and responsibilities arising under the Natural Gas Act, 15 U.S.C. 717(a) et seq., must be referred to when considering this Commission's natural gas allocation program, and not the provisions set forth herein with respect to 202(c) of the Federal Power Act.

(e) *Rates and charges.* The applicant and generating or transmitting systems from whom emergency service is requested to meet inadequate supplies of fuel or energy, are encouraged to utilize the rates and charges contained in existing rate schedules on file with the Commission, or to negotiate mutually satisfactory rates for the proposed transaction. In the event the Commission determines that an emergency exists under section 202(c), and the parties are unable to agree on the terms of the service to be rendered and/or the rate to be charged, the Commission shall prescribe the conditions of service and the rates and charges. Moreover, the Commission may prescribe different rates, terms and conditions than those set forth in any agreement of the parties. In order that the parties may be guided in their negotiations as to the rate form and rate level that the Commission may prescribe, should the parties be unable to agree, the following costing methods shall be utilized by the Commission, depending upon the service to be rendered:

(1) *Fully allocated costs.* If the service to be rendered has characteristics of firm service similar to that rendered by the supplier to its other customers, the generating and transmitting systems shall each be entitled to recover the following costs:

(i) An allocable portion of investment costs of its respective production plant, including return on investment, depreciation, income taxes, property and other taxes related to plant investment and insurance;

(ii) An allocable portion of investment costs of its respective transmission plant, including return on investment, depreciation, income taxes, property and other taxes related to plant investment and insurance;

(iii) Incremental cost associated with its respective generation of emergency service to meet inadequate supplies of fuel or energy. Incremental costs shall mean such operating and maintenance expenses incurred that would not have been otherwise incurred if such service had not been furnished. Such expenses shall include the incremental expenses incurred in the production of the energy so furnished, including incremental fuel expense (i.e., replacement fuel costs), incremental operating labor and supplies, incremental maintenance, labor and supplies, and incremental administrative and general expenses; and

(iv) Incremental costs incurred in its respective transmission of emergency service to meet inadequate supplies of fuel or energy, including incremental operating labor and supplies, incremental maintenance, labor and supplies, incremental administrative and general expenses, transmission network losses which shall include incremental (replacement) fuel expense, if any, in generating such losses, and any other related costs.

(2) *Incremental costs plus additional compensation.* If the service to be rendered is non-firm in nature, the generating and transmitting systems shall each be entitled to recover their respective incremental costs plus some additional reasonable compensation, as follows:

(i) Incremental costs associated with their respective generation of emergency service to meet inadequate supplies of fuel or energy. Incremental costs shall mean such operating and maintenance expenses incurred that would not have been otherwise incurred if such service had not been furnished. Such expenses shall include the incremental expenses incurred in the production of the energy so furnished, including incremental fuel expense (i.e., replacement fuel cost), incremental operating labor and supplies, incremental maintenance labor and supplies, and incremental administrative and general expense;

(ii) The incremental costs incurred in its respective transmission of emergency service to meet inadequate supplies of fuel or energy, including incremental operating labor and supplies, incremental maintenance labor and supplies, incremental administrative and general expenses, transmission network losses which shall include incremental (replacement) fuel expense, if any, in generating such losses, and any other related costs; and

(iii) As additional compensation to the generating and transmitting systems for the utilization of their respective facilities for the generation and transmission of such emergency service to meet inadequate supplies of fuel or energy, each of these systems shall be permitted some additional amount to compensate the supplier (A) for any and all risk associated with his need to replace the fuel burned for purposes of rendering the service; (B) for revenue reductions occasioned by any reduction in services to the supplier's own customers which would otherwise be applied to cover the supplier's costs associated with the services foregone; and (C) for costs associated with the environmental degradation resulting from the additional operation of the generating plants of the supplying system. In addition, a further component of such additional amount may be warranted where there is imprudence supported by evidence that the purchaser's emergency could have been eliminated or alleviated by actions that he could reasonably have been expected to take under the circumstances. In no case should the sum of these payments exceed the fully allocated costs of the supplying and transmitting systems.

(3) *Share the savings.* Where the parties seek to employ a share-the-savings method for non-firm service, the following factors shall be taken into account:

(i) Incremental costs of generation, including:

(A) Incremental fuel costs for service rendered primarily from thermal generating sources, or, as in the Pacific Northwest, the incremental cost of generation from hydro-based operations shall be deemed to approximate the rate for dump hydro energy;

(B) Start-up costs; and

(C) Incremental operation, maintenance and administrative costs.

(ii) Decremental costs of generation replaced on the receiving system under conditions obtaining immediately prior to the onset of the shortage.

The price for fuel emergency service would be equal to the supplier's incremental generation costs, plus one-half of the difference betwen the costs to the purchaser (the supplier's incremental cost plus the sum of the transmission charges, by intermediate transmitting systems) and the purchaser's decremental costs.

(4) The foregoing do not preclude parties from proposing other methods, e.g., return-in-kind, or barter.

[Order 520, 39 FR 42909, Dec. 9, 1974]

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF A PUBLIC UTILITY

Sec.
33.1 Applicability.
33.2 Contents of application; filing fee.
33.3 Required exhibits.
33.4 Additional information.
33.5 [Reserved]
33.6 Number of copies.
33.7 Verification.
33.8 Reports.
33.9 Public notice.
33.10 Commission action.

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

Source: Order 141, 12 FR 8495, Dec. 19, 1947, unless otherwise noted.

Cross References: For rules of practice and procedure, see Part 385 of this title. For forms under rules of practice and regulations, Federal Power Act, see Part 131 of this chapter.

Editorial Note: For an order deferring billing for annual charges due to a Supreme Court ruling see 38 FR 3401, Feb. 6, 1973.

§ 33.1 Applicability.

(a) The requirements of this part will apply to public utilities seeking authority under section 203 of the Federal Power Act. This authority extends to—

(1) The disposition by sale, lease or otherwise by a public utility of the whole of its electric facilities subject to Commission jurisdiction or any part thereof of a value in excess of $50,000.

(2) The merger or consolidation, directly or indirectly of the facilities subject to the Commission's jurisdiction with those of any other person

having a value in excess of $50,000. This includes the acquisition by a public utility of electric facilities used for the transmission or sale at wholesale of electric energy in interstate commerce which, except for ownership, would be subject to Commission's jurisdiction.

(3) The purchase, acquisition or taking by a public utility of any security of any other public utility.

(b) Value in excess of $50,000 as used in section 203 of the Federal Power Act (16 U.S.C. 824b) shall be the original cost undepreciated as defined in the Commission's uniform system of accounts prescribed for public utilities and licensees.

[Order 397, 35 FR 5321, Mar. 31, 1970]

§ 33.2 Contents of application; filing fee.

Each such applicant shall set forth in its application to the Commission, which shall be accompanied by the fee prescribed in Part 381 of this chapter, in the manner and form and in the order indicated, the following information which should insofar as possible, be furnished as to said applicant and each company whose facilities or securities are involved:

(a) The exact name and the address of the principal business office.

(b) The State or other sovereign power under which incorporated, the respective dates of incorporation, and the States in which domesticated.

(c) Name and address of the person authorized to receive notices and communications in respect to application.

(d) The names, titles, and addresses of the principal officers.

(e) A description of the general character of the business done and to be done, together with a designation of the territories served, by counties and States.

(f) A general statement briefly describing the facilities owned or operated for transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce.

(g) A brief reference to any license from the Federal Power Commission.

(h) A statement as of the date of the balance sheet submitted with application showing for each class and series of capital stock:

(1) Brief description.

(2) The amount authorized (face value and number of shares).

(3) The amount outstanding (exclusive of any amount held in the treasury).

(4) Amount held as reacquired securities.

(5) Amount pledged.

(6) Amount owned by affiliated corporations.

(7) Amount held in any fund.

(i) A statement as of the date of the balance sheet submitted with application showing for each class and series of funded debt:

(1) Brief description.

(2) The amount authorized.

(3) The amount outstanding (exclusive of any amount held in the treasury).

(4) Amount held as reacquired securities.

(5) Amount pledged.

(6) Amount owned by affiliated corporations.

(7) Amount in sinking and other funds.

(j) Whether the application is for disposition of facilities by sale, lease, or otherwise, a merger or consolidation of facilities, or for purchase or acquisition of securities of a public utility, also a description of the consideration, if any, and the method of arriving at the amount thereof.

(k) A statement of facilities to be disposed of, consolidated, or merged, giving a description of their present use and of their proposed use after disposition, consolidation, or merger. State whether the proposed disposition of facilities or plan for consolidation or merger includes all the operating facilities of the parties to the transaction.

(l) A statement (in the form prescribed by the Commission's Uniform System of Accounts for Public Utilities and Licensees) of the cost of the facilities involved in the sale, lease, or other disposition or merger or consolidation. If original cost is not known, an estimate of original cost based, insofar as possible, upon records or data of the applicant or its predecessors must be furnished, together with a full explanation of the manner in which such estimate has been made, and a description and statement of the present custody of all existing pertinent data and records.

(m) A statement as to the effect of the proposed transaction upon any contract for the purchase, sale, or interchange of electric energy.

(n) Names and addresses of counsel who have passed upon the legality of the proposed sale, lease or other disposition of facilities, or merger or consolidation of facilities, or purchase or acquisition of securities of a public utility, and names and addresses of any firms of which they, or any of them, are members.

(o) A statement as to whether or not any application with respect to the transaction or any part thereof is required to be filed with any other Federal or State regulatory body.

(p) The facts relied upon by applicants to show that the proposed disposition, merger, or consolidation of facilities or acquisition of securities will be consistent with the public interest.

(q) A brief statement of franchises held, showing date of expiration if not perpetual.

(r) A form of notice suitable for publication in the FEDERAL REGISTER, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309; 41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617 (16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i); Natural Gas Act, as amended, particularly secs. 8, 10, and 16; 52 Stat. 825-826, 830 (15 U.S.C. 717g, 717i, 717o))

[Order 141, 12 FR 8495, Dec. 19, 1947, as amended by Order 149, 14 FR 4496, July 19, 1949; 14 FR 4668, July 27, 1949; Order 379, 34 FR 813, Jan. 18, 1969; Order 427, 36 FR 5597, Mar. 25, 1971; Order 567, 42 FR 30613, June 16, 1977; Order 435, 50 FR 40357, Oct. 3, 1985]

§ 33.3 Required exhibits.

There shall be filed with the application as part thereof one certified copy and five uncertified copies of exhibits A, B, C, and D, and one certified copy and five uncertified copies plus one for each State affected of exhibits E, F, G, H, I, J, K, L, and M, described as follows:

Exhibit A. A copy of the charter or articles of incorporation with amendments to date.

Exhibit B. A copy of the by-laws with amendments to date.

Exhibit C. Copies of all resolutions of directors authorizing the proposed disposition, merger, or consolidation of facilities, or acquisition of securities, in respect to which the application is made, and, if approval of stockholders has been obtained, copies of the resolutions of the stockholders should also be furnished.

Exhibit D. Copies of all mortgages, trusts, deeds, or indentures, securing any obligation of each party to the transaction.

Exhibit E. A signed copy of opinion of counsel in respect to legality of the proposed transaction.

Exhibit F. A statement of the measure of control or ownership exercised by or over each party to the transaction as to any public utility, or bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or any company supplying electric equipment to such party. Where there are any intercorporate relationships through holding companies, ownership of securities or otherwise, the nature and extent of such relationship; also state whether any of the parties to the transaction have officers or directors in common. If not a member of any holding company system, include a statement to that effect.

Exhibit G. Balance sheets and supporting plant schedules for the most recent 12 month period only, on an actual basis and on a pro forma basis in the form prescribed for Statement A and B of the FPC Annual Report Form No. 1, prescribed by § 141.1 of this chapter. The adjustments necessary to arrive at the pro forma statements should be clearly identified.

Exhibit H. A statement of all known contingent liabilities except minor items such as damage claims and similar items involving relatively small amounts, as of the date of the application.

Exhibit I. Income statement for the most recent 12 month period only, on an actual basis and on a pro forma basis in the form prescribed for Statement C of the FPC Annual Report Form No. 1 prescribed by § 141.1 of this Chapter. The adjustments necessary to arrive at the pro forma statements should be clearly identified.

Exhibit J. An analysis of retained earnings for the period covered by the income statements referred to in exhibit I.

Exhibit K. A copy of each application and exhibit filed with any other Federal or State regulatory body in connection with the proposed transaction, and if action has been taken thereon, a certified copy of each order relating thereto.

Exhibit L. A copy of all contracts in respect to the sale, lease, or other proposed disposition, merger or consolidation of facilities, or purchase of securities, as the case may be, together with copies of all other written instruments entered into or proposed to be entered into by the parties to the transaction pertaining thereto.

Exhibit M. A general or key map on a scale of not more than 20 miles to the inch showing in separate colors the properties of each party to the transaction, and distinguishing such parts of them as are included in the proposed disposition, consolidation or merger. The map should also clearly indicate all interconnections and the principal cities of the area served. Whenever possible, the map should not be over 30 inches in its largest dimension.

NOTE: If exhibits A, B, and D have previously been filed with the Commission, a specific reference thereto will be accepted in lieu of a separate filing in each subsequent proceeding.

(Secs. 3, 4, 15, 16, 301, 304, 308, and 309; 41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854-856, 858-859; 82 Stat. 617 (16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 826i) and of the Natural Gas Act, as amended, particularly secs. 8, 10, and 16; 52 Stat. 825-826, 830 (15 U.S.C. 717g, 717i, 717o))

[Order No. 141, 12 FR 8495, Dec. 19, 1947, as amended by Order 567, 42 FR 30613, June 16, 1977]

§ 33.4 Additional information.

The Commission may require additional information when it appears to be pertinent in a particular case.

§ 33.5 [Reserved]

§ 33.6 Number of copies.

An original and five copies, plus one copy for each State affected, of applications under this part shall be submitted.

§ 33.7 Verification.

The original application shall be signed by a person or persons having authority with respect thereto and having knowledge of the matters therein set forth, and shall be verified under oath.

§ 33.8 Reports.

Upon the granting of any application under this part by the Commission, applicants shall report to the Commission under oath within 10 days after any sale, lease, or other disposition of facilities, merger or consolidation of facilities, or purchase or acquisition of securities of a public utility, the fact of such sale, lease, or other disposition of facilities, merger or consolidation of facilities, or purchase or acquisition of securities, and the terms and conditions thereof.

§ 33.9 Public notice.

The Commission may require the applicant to give such local notice by publication as the Commission in its discretion may deem proper.

§ 33.10 Commission action.

Application under this part will ordinarily require 45 days after the date of filing before final action can be taken thereon by the Commission, to allow for such preliminary study, investigation, public notice, opportunity for hearing, and consideration by the Commission, as may be appropriate in the premises.

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

Sec.
34.1 Applicability; definitions; exemptions in case of certain State regulation, certain short-term issuances and certain qualifying facilities.
34.2 Competitive bidding requirements; negotiated placements; exemptions.
34.3 Contents of application for competitive bids or negotiated placements.
34.4 Required exhibits.
34.5 Additional information.
34.6 Form and style.
34.7 Number of copies to be filed.
34.8 Verification.
34.9 Filing fee.
34.10 Reports.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 182, 46 FR 50514, Oct. 14, 1981, unless otherwise noted.

CROSS REFERENCES: For rules of practice and procedure, see Part 385 of this chapter. For Approved Forms, Federal Power Act, see Part 131 of this chapter.

OMB REFERENCE: "FERC Filing No. 523" is the identification number used by the Commission and the Office of Management and Budget to reference the filing requirements in Part 34.

§ 34.1 Applicability; definitions; exemptions in case of certain State regulation, certain short-term issuances and certain qualifying facilities.

(a) *Applicability.* This part applies to applications for authorization from the Commission to issue securities or assume an obligation or liability which are filed by:

(1) Licensees and other entities pursuant to sections 19 and 20 of the Federal Power Act (41 Stat. 1073, 16 U.S.C. 812, 813) and Part 20 of the Commission's regulations; and

(2) Public utilities pursuant to section 204 of the Federal Power Act (49 Stat. 850, 16 U.S.C. 824c).

(b) *Definitions.* For the purpose of this part:

(1) The term "utility" means a licensee, public utility or other entity seeking authorization under sections 19, 20 or 204 of the Federal Power Act;

(2) The term "securities" includes any note, stock, treasury stock, bond, or debenture or other evidence of interest in or indebtedness of a utility;

(3) The term "issuance or placement of securities" means issuance or placement of securities, or assumption of obligation or liability; and

(4) The term "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(c) *Exemptions*—(1) *If State regulates securities prior to issuance.* A utility whose security issuances are regulated by a State agency, in a State in which it is organized and operating shall be exempted from the provisions of sections 19, 20 and 204 of the Federal Power Act, and from the provisions of this part: *Provided, however,* That the State agency is required to exercise its regulatory authority with respect to the issuance of such securities prior to issuance, and that the utility must obtain written authorization or approval from the State agency prior to the issuance of such securities.

(2) *For short-term notes or drafts.* Pursuant to section 204(e) of the Federal Power Act, the issuance, renewal or assumption of liability on a note or draft:

(i) Maturing not more than one year after the date of such issuance, renewal, or assumption of liability, and

(ii) Aggregating (together with all other then outstanding notes and drafts of a maturity of one year or less on which such utility is primarily or secondarily liable) not more than 5 per cent of the total of the other securities of the utility then outstanding, including:

(A) In the case of securities having a par value, such par value, and

(B) In the case of securities having no par value, the fair market value of such securities as of the date of issuance, renewal or assumption of such note or draft, is exempt from Commission regulation pursuant to this part: *Provided, however,* That within 10 days after any such issuance, renewal or assumption of liability, the utility shall file with the Commission a certificate of notification, in the form set forth in § 131.50 of this chapter.

(3) *For certain qualifying facilities.* Any cogeneration or small power production facility which is exempt from sections 19, 20 and 204 of the Federal Power Act pursuant to § 292.601 of this chapter shall be exempt from the provisions of this part.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended at 48 FR 9851, Mar. 9, 1983]

§ 34.2 Competitive bidding requirements; negotiated placements; exemptions.

(a) *Competitive bids*—(1) *General requirement for competitive bidding; exemptions.* Every issuance by a utility of a security subject to sections 19, 20 or 204 of the Federal Power Act shall be made only after public invitation for and acceptance of competitive bids for such securities in accordance with the requirements of this part, except when:

(i) The securities are to be issued to holders of existing securities on a pro rata basis;

(ii) The securities are to be issued to a commercial bank, insurance company or similar institution and are not for resale to the public: *Provided, however,* That no fee or commission is paid to any third party for negotiating the transaction (except an associated service company charging only its costs of service);

(iii) The securities to be issued have a maturity of one year or less; or

(iv) The issuance of the securities, if not otherwise exempt from the competitive bidding requirements under paragraph (a)(1)(i), (ii), or (iii) of this section, is nevertheless exempted by the Commission pursuant to a utility's request, under paragraph (b)(2) of this section, for authority to negotiate for placement of securities, in lieu of seeking competitive bids:

Provided, however, That the Commission may deny any such exemption from competitive bidding upon a finding that a non-competitive placement is not consistent with the public interest.

(2) *Competitive bid application and Commission action thereon.* A utility which proposes to issue securities subject to this part according to competitive bidding procedures shall file an application with the Commission under this part for authority to make such issuances. Upon the receipt of authorization, the utility may invite bids and issue the securities: *Provided, however,* That:

(i) The proposed bids as may be received in response to the public invitation shall not be opened at any time or place other than as specified in the invitation;

(ii) The duly authorized representative of any person making any such proposed bid shall be entitled to be present at the opening of the proposed bids and may examine each proposed bid submitted;

(iii) The invitation shall refer to the prohibitions set forth in paragraph (c) of this section;

(iv) At least two of the bids received shall meet the conditions set forth in the invitation for bids; and

(v)(A) The bid which is accepted shall provide the utility with the greatest overall proceeds, or be the least costly of the proposals obtained, or

(B) If the utility intends to accept a bid other than that described in paragraph (a)(2)(v)(A) of this section, the utility shall before accepting the bid:

(*1*) File with the Commission further justification as the Commission may require, in support of the utility's intention to accept the other bid, and

(*2*) Obtain Commission approval to accept the other bid.

(b) *Negotiated placements*—(1) *Negotiated placement application pursuant to paragraph (a)(1)(i), (ii) or (iii), and Commission action thereon.* Any utility which is exempt from the competitive bidding requirements under paragraph (a)(1)(i), (ii) or (iii) of this section shall submit an application for negotiated placement of securities pursuant to § 34.3. Upon the Commission's authorization to such utility for negotiated placement of the securities, the utility may make the placement.

(2) *Negotiated placement application pursuant to paragraph (a)(1)(iv), and Commission action thereon.* (i) A utility which requests authority to issue securities by negotiation pursuant to paragraph (a)(1)(iv) shall:

(A) File for and obtain an exemption from the Commission's competitive bidding requirements prescribed in paragraph (a) of this section;

(B) Upon receipt of the exemption, shall negotiate with, and obtain proposals with regard to placement of the securities from at least three prospective dealers, purchasers or underwriters, unless otherwise authorized by the Commission, and each such dealer, purchaser or underwriter shall be notified of the prohibitions set forth in paragraph (c) of this section; and

(C) File an application for authority to issue the securities, pursuant to § 34.3.

(ii) Upon the Commission's authorization to a utility to issue the securities, such utility may make the issuances.

(c) *Prohibitions respecting competitive bids or negotiated placements.* No bid for the placement of any securities shall be invited or accepted from, nor shall negotiations occur with, any person who:

(1) Prior to the submission of bids, or beginning of negotiations, has performed any service for any fee or compensation in connection with the proposed issuance of securities; or

(2) Violates section 305(a) of the Federal Power Act with respect to the bid, invitation, or negotiation.

§ 34.3 Contents of application for competitive bids or negotiated placements.

Each application to the Commission for authority to issue securities shall contain the information specified in this section. In lieu of filing the information required in paragraphs (e), (k) and (l) of this section, a specific reference may be made to the portion of the registration statement filed under § 34.4(f) of this chapter which includes the information required in these paragraphs.

(a) The official name of the applicant and address of its principal business office.

(b) The State in which the utility is incorporated, the date of incorporation, and each State in which it operates.

(c) The name, address and telephone number of a person within the utility authorized to receive notices and communications with respect to the application.

(d) The date by which Commission action is requested.

(e) A full description of the securities proposed to be issued, including:

(1) Type and nature of securities;

(2) Amount of securities (par or stated value and number of units);

(3) Interest or dividend rate, if any;

(4) Dates of issuance and maturity;

(5) Institutional rating of the securities—or if the securities are not rated, an explanation as to why they are not rated, and if the securities will be rated, an estimate of the rating;

(6) Any stock exchange on which the securities will be listed; and

(7) Information in support of an exemption from competitive bidding requirements pursuant to § 34.2(a)(1) (i), (ii) or (iii).

(f) A description as to how such securities are to be issued and sold or the procedure by which the applicant will assume any obligation or liability as guarantor, endorser, surety, or otherwise.

(g)(1)(i) The name and address of any person receiving or entitled to receive a fee for services (other than persons who render technical services such as attorneys, or accountants) related to the negotiation, issuance or sale of securities; or, receiving or entitled to receive a fee for services in securing underwriters, sellers, or purchasers of securities, except as related to any competitive bid;

(ii) The amount of each such fee;

(iii) The facts showing that the services are necessary, and that the fee is reasonable for rendering services in an arm's length transaction; and

(iv) Any other relevant factors concerning fees or services that the utility wished to provide.

(2) All facts showing or tending to show that the applicant directly or indirectly controls, is controlled by, or is under the same common control as any person named pursuant to the requirements of paragraph (g)(1)(i) of this section; or facts showing or tending to show the contrary. For purposes of this clause, "control" has the same meaning as "Control" in Item 5.B. of the Definitions at 18 CFR Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act.

(h) The purpose for which the securities for which application is made are to be issued:

(1) If the purpose of such issuance is the construction, completion, extension, or improvement of facilities, describe in reasonable detail the construction program for which the funds were or are to be used.

(2) If the purpose for such issuance is for the refunding of obligations, describe in detail the obligations to be refunded, including the character, principal amounts, applicable discount or premium, dates of issuance and maturity, and all other material facts concerning such obligations.

(3) If the purpose for such issuance is for other than construction or refunding, explain such other purpose(s) in detail.

(i) A statement as to whether or not any application with respect to the transaction or any part thereof is required to be filed with any State regulatory body.

(j) A detailed statement of the facts relied upon by the applicant to show that the issuance:

(1) Is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, is necessary or appropriate for or consistent with the proper performances by the applicant of service as a public utility and will not impair its ability to perform that service, and

(2) Is reasonably necessary or appropriate for such purposes.

(k) A detailed statement of the bond indenture(s) or other limitations on interest and dividend coverage, and the effects of such limitations on the issuance of additional debt or equity securities.

(l) A brief summary of any rate changes which were made effective during the period for which financial statements are submitted or which became or will become effective after the period for which statements are submitted.

(m) A form of notice suitable for publication in the FEDERAL REGISTER, setting forth: (1) The legal name of the applicant, (2) the securities offered for issuance including the proposed issue date, and (3) the comment procedure.

(n) Any applicable exhibits as required under § 34.4.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 390, 49 FR 32505, Aug. 14, 1984]

§ 34.4 Required exhibits.

(a) *Exhibit A.* A copy of the applicant's charter or articles of incorporation with amendments to date of filing the application; and a copy of the bylaws with amendments to date: *Provided, however,* That if the documents required in this exhibit have been filed with the Commission no more than 5 years prior to the current application, a specific reference to, and the date of such previous filings, will be accepted in lieu of separate filings.

(b) *Exhibit B.* A copy of all resolutions of the applicant's directors authorizing the issuance of securities for which the application is made; and copies of the resolution of the stockholders approving such issuance if approval of the stockholders has been obtained.

(c) *Exhibit C.* A statement of the measure of control or ownership exercised by or over the applicant as to any utility, bank, trust company, banking association, firm that is authorized by law to underwrite or participate in the marketing of securities of a utility, or any company supplying electric equipment to such applicant. If any intercorporate relationships exist among any such entities through holding companies, ownership of securities, or otherwise, a statement is required concerning the ownership of securities or the nature and extent of such relationship. If the applicant is not a member of any holding company system, a statement to that effect is required.

(d) *Exhibit D.* The balance sheet and attached notes for the most recent 12 month period, on both an actual basis and pro forma basis in the form prescribed for Statement A, "Comparative Balance Sheet" of Form No. 1, "Annual Report for Major Electric Utilities, Licensees and Others" (*see* 18 CFR 141.1). Each adjustment made in determining the pro forma basis shall be clearly identified.

(e) *Exhibit E.* The income statement, with attached notes, for the most recent 12 month period, on both an actual basis and a pro forma basis in the form prescribed for Statement C ("Statement of Income for the Year") of Form No. 1. Each adjustment made in determining the pro forma basis shall be clearly identified.

(f) *Exhibit F.* A copy of registration statement and exhibits which are filed with the Securities and Exchange Commission for the proposed security issuance.

(g) *Exhibit G.* A copy of the public invitation(s) for proposals to purchase or underwrite the securities offered for issuance.

(h) *Exhibit H.* (1) A copy of each proposal received by the applicant for a negotiated placement of the securities offered for issuance, and a summary tabulation of all proposals. If actual data concerning such proposals are not available, estimated data may be substituted, if they are identified as estimates. The summary shall include the following information, identified by prospective dealer, purchaser or underwriter:

(i) Par or stated value of the securities.

(ii) Number of units (shares of stock, number of bonds) to be issued.

(iii) Total dollar amount of the issue.

(iv) Life of the securities, including maximum life and average life for a sinking fund issue.

(v) Dividend or interest rate.

(vi) Call provisions.

(vii) Sinking fund provisions.

(viii) Offering price to public or to other purchaser(s).

(ix) Discount or premium.

(x) Commission or underwriting spread.

(xi) Net proceeds to company for each unit of security and for the total issue.

(xii) Net cost to the company for securities with a stated interest or dividend rate.

(xiii) Other pertinent data.

(2) A list identifying any person with whom negotiations took place but from whom no proposal was received.

(3) A justification in support of the utility's intention to accept a particular offer.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 390, 49 FR 32505, Aug. 14, 1984]

§ 34.5 Additional information.

The Commission may, in its discretion, require the filing of additional information which appears necessary to reach a determination on any particular application.

§ 34.6 Form and style.

Each application pursuant to this Part 34 shall conform to the requirements of Subpart T of Part 385 of this chapter.

[Order 182, 46 FR 50514, Oct. 14, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 34.7 Number of copies to be filed.

Each applicant shall submit to this Commission an original and four copies of each application pursuant to this Part 34.

§ 34.8 Verification.

The original application shall b signed by an authorized representati of the applicant, who has knowledg of the matters set forth therein, and i shall be verified under oath.

§ 34.9 Filing fee.

Each application shall be accompanied by a fee as prescribed in Part 38 of this chapter.

[Order 182, 46 FR 50514, Oct. 14, 1981, b Order 435, amended at 50 FR 40357, Oct. 1985]

§ 34.10 Reports.

The applicant shall file a report pursuant to 18 CFR 131.43 no later tha 180 days after the sale or placement o equity or long-term debt securities, o entry into other contractual obligations pursuant to authority grante under this part. This requirement doe not apply to debt having a maturity o one year or less.

PART 35—FILING OF RATE SCHEDULES

Subpart A—Application

Sec.

35.0 Filing fees.
35.1 Application; obligation to file ra schedules.
35.2 Definitions.
35.3 Notice requirements.
35.4 Permission to become effective is no approval.
35.5 Rejection of material submitted fo filing.
35.6 Submission for staff suggestions.
35.7 Number of copies to be supplied.
35.8 Comments by interested parties.
35.9 Identification and numbering of ra schedules.
35.10 Form and style of rate schedules.
35.11 Waiver of notice requirement.

Subpart B—Documents To Be Submitted With Filing

35.12 Filing of initial rate schedules.
35.13 Filing of changes in rate schedules.

Subpart C—Other Filing Requirements

35.14 Fuel cost and purchased econom power adjustment clauses.
35.15 Notices of cancellation or termin tion.

Sec.
35.16 Notice of succession.
35.17 Changes relating to suspended rate schedules or parts thereof.
35.18 Rates established by order of the Commission.
35.19 Submission of information by reference.
35.19a Refund requirements under suspension orders.
35.20 Filing of rate schedules, notices, etc., by persons authorized to transmit electric energy from the United States to a foreign country.
35.21 Applicability to licensees and others subject to section 19 or 20 of the Federal Power Act.
35.22 Research and development clauses.
35.23 Limits for percentage adders in rates for transmission services; revision of rate schedules.
35.24 [Reserved]
35.25 Tax normalization for public utilities.
35.26 Construction work in progress.
35.27 Changes of rates relating to changes in the Federal corporate income tax rate.

Subpart D—Procedures and Requirements for Public Utility Sales of Power to Bonneville Power Administration Under Northwest Power Act

35.30 General provisions.
35.31 Commission review.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. No. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 271, 28 FR 10573, Oct. 2, 1963, unless otherwise noted.

EDITORIAL NOTE: For an order deferring billing for annual charges due to a Supreme Court ruling, see 38 FR 3401, Feb. 6, 1973.

Subpart A—Application

§ 35.0 Filing fees.

Every filing made under this part shall be accompanied by the fee described in Part 381 of this chapter.

[Order 427, 36 FR 5597, Mar. 25, 1971, as amended by Order 435, 50 FR 40357, Oct. 3, 1985]

§ 35.1 Application; obligation to file rate schedules.

(a) Every public utility shall file with the Commission and post, in conformity with the requirements of this Part, full and complete rate schedules, as defined in § 35.2(b), clearly and specifically setting forth all rates and charges for any transmission or sale of electric energy subject to the jurisdiction of this Commission, the classifications, practices, rules and regulations affecting such rates and charges and all contracts which in any manner affect or relate to such rates, charges, classifications, services, rules, regulations or practices, as required by section 205(c) of the Federal Power Act (49 Stat. 851; 16 U.S.C. 824d(c)). Where two or more public utilities are parties to the same rate schedule, each public utility transmitting or selling electric energy subject to the jurisdiction of this Commission shall post and file such rate schedule, or the rate schedule may be filed by one such public utility and all other parties having an obligation to file may post and file a certificate of concurrence on the form indicated in § 131.52 of this chapter: *Provided, however,* In cases where two or more public utilities are required to file rate schedules or certificates of concurrence such public utilities may authorize a designated representative to file upon behalf of all parties if upon written request such parties have been granted Commission authorization therefor.

(b) A rate schedule applicable to a transmission or sale of electric energy, other than that which proposes to supersede, supplement, cancel or otherwise change the provisions of a rate schedule required to be on file with this Commission, shall be filed as an initial rate in accordance with § 35.12.

(c) A rate schedule applicable to a transmission or sale of electric energy which proposes to supersede, supplement, cancel or otherwise change any of the provisions of a rate schedule required to be on file with this Commission (such as providing for other or additional rates, charges, classifications or services, or rules, regulations, practices or contracts for a particular customer or customers) shall be filed as a change in rate in accordance with § 35.13, except Notices of Cancellation or Termination which shall be filed as a change in accordance with § 35.15.

(d)(1) The provisions of this paragraph (d) shall apply to rate schedules tendered for filing on or after August 1, 1976, which are applicable to the transmission or sale of firm power for resale to an all-requirements customer, whether tendered pursuant to § 35.12 as an initial rate schedule or tendered pursuant to § 35.13 as a change in an existing rate schedule whose term has expired or whose term is to be extended.

(2) Rate schedules covered by the terms of paragraph (d)(1) of this section shall contain the following provision when it is the intent of the contracting parties to give the party furnishing service the unrestricted right to file unilateral rate changes under section 205 of the Federal Power Act:

> Nothing contained herein shall be construed as affecting in any way the right of the party furnishing service under this rate schedule to unilaterally make application to the Federal Power Commission for a change in rates under section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder.

(3) Rate schedules covered by the terms of paragraph (d)(1) of this section shall contain the following provision when it is the intent of the contracting parties to withhold from the party furnishing service the right to file any unilateral rate changes under section 205 of the Federal Power Act:

> The rates for service specified herein shall remain in effect for the term of ——— or until ———, and shall not be subject to change through application to the Federal Power Commission pursuant to the provisions of Section 205 of the Federal Power Act absent the agreement of all parties thereto.

(4) Rate schedules covered by the terms of paragraph (d)(1) of this section, but which are not covered by paragraphs (d)(2) or (d)(3) of this section, are not required to contain either of the boilerplate provisions set forth in paragraph (d)(2) or (d)(3) of this section.

(e) No public utility shall, directly or indirectly, demand, charge, collect or receive any rate, charge or compensation for or in connection with electric service subject to the jurisdiction of the Commission, or impose any classification, practice, rule, regulation or contract with respect thereto, which is different from that provided in a rate schedule required to be on file with this Commission unless otherwise specifically provided by order of the Commission for good cause shown.

(f) A rate schedule applicable to the sale of electric power by a public utility to the Bonneville Power Administration under section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. No. 96-501 (1980)) shall be filed in accordance with Subpart D of this part.

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 541, 40 FR 56425, Dec. 3, 1975; Order 541-A, 41 FR 27831, July 7, 1976; 46 FR 50520, Oct. 14, 1981; Order 337, 48 FR 46976, Oct. 17, 1983]

§ 35.2 Definitions.

(a) *Electric service.* The term "electric service" as used herein shall mean the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale for resale in interstate commerce, and may be comprised of various classes of capacity and energy sales and/or transmission services. "Electric service" shall include the utilization of facilities owned or operated by any public utility to effect any of the foregoing sales or services whether by leasing or other arrangements. As defined herein, "electric service" is without regard to the form of payment or compensation for the sales or services rendered whether by purchase and sale, interchange, exchange, wheeling charge, facilities charge, rental or otherwise.

(b) *Rate schedule.* The term "rate schedule" as used herein shall mean a statement of (1) electric service as defined in paragraph (a) of this section, (2) rates and charges for or in connection with that service, and (3) all classifications, practices, rules, regulations or contracts which in any manner affect or relate to the aforementioned service, rates, and charges. This statement shall be in writing and may take the physical form of a contractual document, purchase or sale agreement, lease of facilities, tariff[1] or other writing. Any oral agreement or understanding forming a part of such statement shall be reduced to writing and made a part thereof.

(c) *Filing date.* The term "filing date" as used herein shall mean the date on which a rate schedule filing is completed by the receipt in the office of the Secretary of all supporting cost and other data required to be filed in compliance with the requirements of this part, unless such rate schedule is rejected as provided in § 35.5. If the material submitted is found to be incomplete, the Director of the Office of Electric Power Regulation will so notify the filing utility within 60 days of the receipt of the submittal.

(d) *Posting.* The term "posting" as used herein shall mean, (1) keeping a copy of every rate schedule of a public utility as currently on file, or as tendered for filing, with the Commission open and available during regular business hours for public inspection in a convenient form and place at the public utility's principal and district or division offices in the territory served, and (2) mailing to each purchaser under a rate schedule a copy of such rate schedule on the date it is sent to this Commission for filing. Posting shall include, in the event of the filing of increased rates or charges, the mailing to each purchaser under a rate schedule or schedules proposed to be changed and to each State Commission within whose jurisdiction such purchaser or purchasers distribute and sell electric energy at retail, a copy of the rate schedule showing such increased rates or charges, comparative billing data as required under this part, and, if requested by a purchaser or State Commission, a copy of the supporting data required to be submitted to this Commission under this part. Upon direction of the Secretary, the public utility shall serve copies of rate schedules and supplementary data upon designated parties other than those specified herein.

(e) *Effective date.* As used herein the "effective date" of a rate schedule shall mean the date on which a rate schedule filed and posted pursuant to the requirements of this part is permitted by the Commission to become effective as a filed rate schedule. The effective date shall be 60 days after the filing date, or such other date as may be specified by the Commission.

(16 U.S.C. 284(d), 792 et seq.; Pub. L. 95-617; Pub. L. 95-91; E.O. 12009, 42 FR 46267)

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended at 28 FR 11404, Oct. 24, 1963; 43 FR 36437, Aug. 17, 1978; 44 FR 16372, Mar. 19, 1979; 44 FR 20077, Apr. 4, 1979; Order 39, 44 FR 46454, Aug. 8, 1979]

§ 35.3 Notice requirements.

(a) *Rate schedules.* All rate schedules or any part thereof shall be tendered for filing with the Commission and posted not less than sixty days nor more than one hundred-twenty days prior to the date on which the electric service is to commence and become effective under an initial rate schedule or the date on which the filing party proposes to make any change in electric service and/or rate, charge, classification, practice, rule, regulation, or contract effective as a change in rate schedule, except as provided in paragraph (b) of this section, or unless a different period of time is permitted by the Commission. Nothing herein shall be construed as in any way precluding a public utility from entering into agreements which, under this section, may not be filed at the time of execution thereof by reason of the aforementioned sixty to one hundred-twenty day prior filing requirements. The proposed effective date of any rate schedule filing having a "filing date" in accordance with § 35.2(c) may be deferred at the written request of the filing public utility submitted to the Secretary prior to its acceptance by the Commission.

(b) *Construction of facilities.* Rate schedules predicated on the construction of facilities may be tendered for filing and posted no more than one hundred-twenty days prior to the date set by the parties for the contract to go into effect. The Commission, upon request, may permit a rate schedule or part thereof to be tendered for filing and posted more than one hundred-twenty days before it is to become effective.

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[1] The term "tariff" means a compilation, in book form, of rate schedules of a particular public utility, effective under the Federal Power Act, and a copy of each form of service agreement. In connection herewith, attention is invited to Part 154 of this chapter, i.e., the Commission's regulations under the Natural Gas Act, as a guide to the form and composition of a tariff.

(16 U.S.C. 284(d); Pub. L. 95-617; Pub. L. 95-91; E.O. 12009, 42 FR 46267)

[44 FR 16372, Mar. 19, 1979; 44 FR 20077, Apr. 4, 1979]

§ 35.4 Permission to become effective is not approval.

The fact that the Commission permits a rate schedule or any part thereof or any notice of cancellation to become effective shall not constitute approval by the Commission of such rate schedule or part thereof or notice of cancellation.

§ 35.5 Rejection of material submitted for filing.

The Secretary, pursuant to the Commission's rules of practice and procedure and delegation of Commission authority, shall reject any material submitted for filing with the Commission which patently fails to substantially comply with the applicable requirements set forth in this part, or the Commission's rules of practice and procedure.

§ 35.6 Submission for staff suggestions.

Any public utility may submit a rate schedule or any part thereof or any material relating thereto for the purpose of receiving staff suggestions and comments thereon prior to filing with the Commission.

§ 35.7 Number of copies to be supplied.

All tariffs, rate schedules and contracts, or parts thereof, and material related thereto including any change in rates, certificates of concurrence, notices of cancellation or termination, and notices of succession, shall be supplied to the Commission for filing in six copies. All copies are to be included in one package, together with six copies of the letter of transmittal and all other materials and information required by these regulations, and addressed to the Federal Power Commission, Washington, DC 20426.

[Order 525, 40 FR 8947, Mar. 4, 1975]

§ 35.8 Comments by interested parties.

(a) *Form of notice for* FEDERAL REGISTER. The public utility shall file a form of notice suitable for publication in the FEDERAL REGISTER which shall be in the following form:

UNITED STATES OF AMERICA

FEDERAL POWER COMMISSION

(Name of Utility) Docket No.

NOTICE OF TARIFF CHANGE

Take notice that (name of public utility) on (date), tendered for filing proposed changes in its FPC Electric Service Tariff (Volume Nos.). [The following language in the first paragraph applies only to increased rate filings]. The proposed changes would increase revenues from jurisdictional sales and service by (amount) based on the 12 month period ending (date). [If changes other than increased rates and charges are proposed, the public utility shall concisely state the nature of these changes].

[The public utility shall briefly describe the reasons for the proposed changes in the second paragraph.]

Copies of the filing were served upon the public utility's jurisdictional customers (other parties the public utility served, *inter alia*, state public service commissions, other government agencies, etc.).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.212 and 385.207 of this chapter. All such petitions or protests should be filed on or before ————. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

[Order 487, 38 FR 19967, July 26, 1973, as amended by Order 225, 47 FR 19056, May 1982]

§ 35.9 Identification and numbering of rate schedules.

Every rate schedule filed will be numbered by the Commission and the filing public utility advised of the Rate

Schedule FPC number. Whenever a rate schedule offered for filing changes, alters or modifies any rate, charge, classification, or service, or any rule, regulation, practice or contract relating thereto, or provides additionally for a rate, charge, classification or service, or any rule regulation or practice or contract relating thereto, but is dependent upon and amendatory of an existing rate schedule on file with the Commission, it will be designated as a supplement or an exhibit to the existing rate schedule and will be so numbered.

§ 35.10 Form and style of rate schedules.

(a) Every rate schedule offered for filing with the Commission under this part, shall show on a title page, which shall be otherwise blank, (1) the name of the filing public utility, (2) the names of other utilities rendering or receiving service under the rate schedule; and (3) a brief description of the service to be provided under the rate schedule.

(b) All rate schedules tendered for filing under this part must be printed or otherwise reproduced on 8½ inches wide by 11 inches long white, durable paper so as to result in a clear and permanent record. All copies must be clear, legible, complete, and must show the name(s) of all signatories to executed documents.

§ 35.11 Waiver of notice requirement.

Upon application and for good cause shown, the Commission may, by order, provide that a rate schedule, or part thereof, shall be effective as of a date prior to the date of filing or prior to the date the rate schedule would become effective in accordance with these rules. Application for waiver of the prior notice requirement shall show (a) how and the extent to which the filing public utility and purchaser(s) under such rate schedule, or part thereof, would be affected if the notice requirement is not waived, and (b) the effects of the waiver, if granted, upon purchasers under other rate schedules. The filing public utility requesting such waiver of notice shall serve copies of its request therefor upon all purchasers.

Subpart B—Documents To Be Submitted With a Filing

§ 35.12 Filing of initial rate schedules.

(a) The letter of a public utility transmitting to the Commission for filing an initial rate schedule shall list the documents submitted with the filing; give the date on which the service under that schedule is expected to commence; state the names and addresses of those to whom the rate schedule has been mailed; contain a brief description of the kinds of services to be furnished at the rates specified therein; and summarize the circumstances which show that all requisite agreement to the rate schedule or the filing thereof, including any contract embodied therein, has in fact been obtained. In the case of coordination and interchange arrangements in the nature of power pooling transactions, all supporting data required to be submitted in support of a rate schedule filing shall also be submitted by parties filing certificates of concurrence, or a representative to file supporting data on behalf of all parties may be designated as provided in § 35.1.

(b) In addition, the following material shall be submitted:

(1) Estimates of the transactions and revenues under an initial rate schedule. This shall include estimates, by months and for the year, of the quantities of services to be rendered and of the revenues to be derived therefrom during the 12 months immediately following the month in which those services will commence. Such estimates should be subdivided by classes of service, customers, and delivery points and shall show all billing determinants, e.g., kw, kwh, fuel adjustment, power factor adjustment. These estimates will not be required where they cannot be made with relative accuracy as, for example, in cases of interconnection arrangements containing schedules of rates for emergency energy, spinning reserve or economy energy or in cases of coordination and integration of hydroelectric generating resources whose output cannot be predicted quantitatively due to water conditions.

(2)(i) Basis of the rate or charge proposed in an initial rate schedule and an explanation of how the proposed rate or charge was derived. For example, is it a standard rate of the filing public utility; is it a special rate arrived at through negotiations and, if so, were unusual customer requirements or competitive factors involved; and is it designed to produce a return substantially equal to the filing public utility's overall rate of return or is it essentially an increment cost plus a share of the savings rate? Were special cost of service studies prepared in connection with the derivation of the rate?

(ii) A summary statement of all cost (whether fully distributed, incremental or other) computations involved in arriving at the derivation of the level of the rate, in sufficient detail to justify the rate, shall be submitted with the filing, except that if the filing includes nothing more than service to one or more added customers under an established rate of the utility for a particular class of service, such summary statement of cost computations is not required. In all cases, the Secretary is authorized to require the submission of the complete cost studies as part of the filing and each filing public utility shall submit the same upon request by the Secretary in such form as he shall direct.

(3) A comparison of the proposed initial rate with other rates of the filing public utility for similar wholesale for resale and transmission services.

(4) If any facilities are installed or modified in order to supply the service to be furnished under the proposed rate schedule, the filing public utility shall show on an appropriate available map (or sketch) and single line diagram the additions or changes to be made.

(5) In support of the design of the proposed rate, the filing public utility shall submit the same material required to be furnished pursuant to § 35.13(h)(37) Statement BL. In addition to the summary cost analysis required by Statement BL, the public utility shall also submit a complete explanation as to the method used in arriving at the cost of service allocated to the sales and service for which th rate or charge is proposed, and sho ing the principal determinants use for allocation purposes. In connecti therewith, the following data shou be submitted:

(i) In the event the filing public ut ity considers certain special faciliti as being devoted entirely to the servi involved, it shall show the cost of ser ice related to such special facilities.

(ii) Computations showing th energy responsibility of the servi based upon considerations of ener sales under the proposed rate schedu and the kWh delivered from the fili public utility's supply system.

(iii) Computations showing th demand responsibility of the servi and explaining the consideratio upon which such responsibility was de termined (e.g., coincident or non-coi cident peak demands, etc.).

(Federal Power Act, 16 U.S.C. 792-828c; De partment of Energy Organization Act, 4 U.S.C. 7101-7352; E.O. 12009, 42 FR 46 Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 35 *et seq.*))

[Order 271, 28 FR 10573, Oct. 2, 1963, a amended at 28 FR 11404, Oct. 24, 196 Order 537, 40 FR 48674, Oct. 17, 1975; Orde 91, 45 FR 46363, July 10, 1980]

§ 35.13 Filing of changes in rate sche ules.

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(a) *General rule.* Every public utility shall file the information required by this section, as applicable, at the time it files with the Commission under § 35.1 of this part all or part of a rate schedule to supersede, supplement, or otherwise change the provisions of a rate schedule filed with the Commission under § 35.1. Any petition filed under § 385.207 of this chapter for waiver of any provision of this section shall specifically identify the requirement that the applicant wishes the Commission to waive.

(1) *Filing for any rate schedule change not otherwise excepted.* Except as provided in paragraph (a)(2) of this section, any utility that files a rate schedule change shall submit with its filing the information specified in paragraphs (b), (c), (d), (e), and (h) of this section, in accordance with paragraph (g) of this section.

(2) *Abbreviated filing requirements.* (i) *For certain rate increases.* Any utility that files a rate schedule change that provides for a rate increase may submit with its filing only the information required in paragraphs (b), (c), and (h)(37) of this section and in § 35.12(b) (2) and (5) of this part and, for any rate increase decribed in clause (B) of this subparagraph, the information required in paragraph (h)(38) of this section, in accordance with paragraph (g) of this section, if the rate increase is:

(A) Less than $200,000 for Period I, as defined in paragraph (d)(3)(i) of this section;

(B) One to which all wholesale customers that belong to the affected rate class consent and that is less than one million dollars for Period I;

(C) For any service of short duration and of a type for which the need and usage cannot be reasonably forecasted, such as emergency or short-term power; or

(D) An integral part of a coordination and interchange arrangement. This exception to the requirements of paragraph (a)(1) of this section does not apply to interchange schedules providing for firm services (services furnished on an assured basis).

(ii) *For rate schedule changes other than rate increases.* (A) Except as provided in paragraph (a)(2)(ii)(B) of this section, any utility that files a rate schedule change that does not provide for a rate increase or that provides for a rate increase that is based solely on change in delivery points, a change in delivery voltage, or a similar change in service, must submit with its filing only the information required in paragraphs (b) and (c) of this section.

(B) Any utility that files a rate schedule change that provides for a rate decrease under § 35.27 of this part must submit with its filing only the information required by § 35.27 of this part.

(iii) *Computing rate increases.* For purposes of this subparagraph and paragraph (d)(2)(ii) of this section, the amount of any rate increase shall be the difference between the total revenues to be recovered under the rate schedule change and the total revenues recovered or recoverable under the rate schedule to be superseded or supplemented and shall be determined by:

(A) applying the components of the rate schedule to be superseded or supplemented to the billing determinants for the twelve months of Period I;

(B) Applying the components of the rate schedule change to the billing determinants for the twelve months of Period I; and

(C) Subtracting the total revenues under subclause (A) from the total revenues under subclause (B).

(3) *Cost of service data required by letter.* The Director of the Office of Electric Power Regulation may, by letter, require a utility that is not required under paragraph (a)(1) of this section to submit cost of service data to submit such specified cost of service data as are needed for Commission analysis of the rate schedule change.

(b) *General information.* Any utility subject to paragraph (a) of this section shall file the following general information:

(1) A list of documents submitted with the rate schedule change;

(2) The date on which the utility proposes to make the rate schedule change effective;

(3) The names and addresses of persons to whom a copy of the rate schedule change has been mailed;

(4) A brief description of the rate schedule change;

(5) A statement of the reasons for the rate schedule change;

(6) A showing that all requisite agreement to the rate schedule change, or to the filing of the rate schedule change, including any agreement required by contract, has in fact been obtained;

(7) A statement showing any penses or costs included in the cost service statements for Period I Period II, as defined in paragra (d)(3) of this section, that have be alleged or judged in any administr tive or judicial proceeding to be illeg duplicative, or unnecessary costs th are demonstrably the product of d criminatory employment practice and

(8) A form of notice suitable for pu lication in the FEDERAL REGISTER in a cordance with § 35.8 of this part.

(c) *Information relating to the effe of the rate schedule change.* Any utili subject to paragraph (a) of this sectio shall also file the following informa tion or materials:

(1) A table or statement comparin sales and services and revenues from sales and services under the ra schedule to be superseded or supple mented and under the rate schedul change, by applying the component of each such rate schedule to the bil ing determinants for each class o service, for each customer, and fo each delivery point or set of deliver points that constitutes a billing unit:

(i) Except as provided in clause (i for each of the twelve months immedi ately before and each of the twelve months immediately after the pro posed effective date of the rate sched ule change, and the total for each o the two twelve month periods; or

(ii) At the election of the utility:

(A) If the utility files Statements BG and BH under paragraph (h) for Period I, for each of the twelve months of Period I instead of for the twelve months immediately before the proposed effective date of the rate schedule change; and

(B) If Period II is the test period, for each of the twelve months of Period II instead of for the twelve months im mediately after the proposed effective date of the rate schedule change;

(2) A comparison of the rate sched ule change and the utility's other rates for similar wholesale for resale and transmission services; and

(3) If any specifically assignable fa cilities have been or will be installed or modified in order to supply service under the rate schedule change, an ap propriate map or sketch and single

line diagram showing the additions or changes to be made.

(d) *Cost of service information*—(1) *Filing of Period I data.* Any utility that is required under paragraph (a)(1) of section to submit cost of service information, or that is subject to the exception in paragraph (a)(2)(i) of this section but elects to file such information, shall submit Statements AA through BM under paragraph (h) using:

(i) Unadjusted Period I data; or

(ii) Period I data adjusted to reflect changes that affect revenues and costs prior to the proposed effective date of the rate schedule change and that are known and measurable with reasonable accuracy at the time the rate schedule change is filed, if such utility:

(A) Is not required to and does not file Period II data;

(B) Adjusts all Period I data to reflect such changes; and

(C) Fully supports the adjustments in the appropriate cost of service statements.

(2) *Filing of Period II data.* (i) Except as provided in clause (ii) of this subparagraph, any utility that is required under paragraph (a)(1) of this section to submit cost of service information shall submit Statements AA through BM described in paragraph (h) using estimated costs and revenues for Period II;

(ii) A utility may elect not to file Period II data if:

(A) The utility files a rate increase that is less than one million dollars for Period I; or

(B) All wholesale customers that belong to the affected rate class have consented to the rate increase.

(3) *Definitions.* For purposes of this section:

(i) "Period I" means the most recent twelve consecutive months, or the most recent calendar year, for which actual data are available, the last day of which is no more than fifteen months before the date of tender for filing under § 35.1 of the notice of rate schedule change;

(ii) "Period II" means any period of twelve consecutive months after the end of Period I that begins:

(A) No earlier than nine months before the date on which the rate schedule change is proposed to become effective; and

(B) No later than three months after the date on which the rate schedule change is proposed to become effective.

(4) *Test period.* If Period II data are not submitted for Statements AA through BM, Period I shall be the test period. If Period II data are submitted for Statements AA through BM, Period II shall be the test period.

(5) *Work papers.* A utility that files adjusted Period I data or that files Period II data shall submit all work papers relating to such data. The utility shall provide a comprehensive explanation of the bases for the adjustments or estimates and, if such adjustments or estimates are based on a regularly prepared corporate budget, shall include relevant excerpts from such budget. Work papers and documents containing additional explanatory material shall be cut or folded to letter size, shall be assigned page numbers, and shall be marked, organized and indexed according to:

(A) Subject matter;

(B) The cost of service statements to which they apply; and

(C) Witness.

(6) *Additional information.* If the Commission orders an investigation of a rate schedule change, the utility shall submit all of the following information not previously submitted to the Commission, for the first full calendar quarter beginning after issuance of the order initiating the investigation and shall submit such information for each subsequent calendar quarter until the Commission issues a final order concluding the investigation. The utility shall submit such information during the first month of the calendar quarter following that to which the information applies. The following information shall be submitted:

(i) Information concerning any actions involving significant changes in the utility's financial condition, accounting methods, or operations, including the following:

(A) Issuance of any securities, reported in the form required in Statement AV under paragraph (h)(22);

(B) Significant increases or decreases in proposed construction program expenditures;

(C) Mergers, consolidations or other major changes in the utility's corporate organization; and

(D) Changes in the utility's capital structure.

(ii) A copy of each order issued by any regulatory agency approving, rejecting or otherwise disposing of an application for an increase in the electric rates of the utility and a copy of each transmittal letter or equivalent written document by which a utility summarizes and submits a new application, for each rate increase pending before a state regulatory agency.

(7) *Attestation.* A utility shall include in its filing an attestation by its chief accounting officer or another of its officers that, to the best of that officer's knowledge, information, and belief, the cost of service statements and supporting data submitted under this paragraph are true, accurate, and current representations of the utility's books, budgets, or other corporate documents.

(e) *Testimony and exhibits*—(1) *Filing requirements.* (i) A utility subject to paragraph (a)(1) of this section shall file Statements AA through BM under paragraph (h) as exhibits with its rate schedule change and may file any other exhibits in support of its rate schedule change.

(ii) A utility subject to paragraph (a)(1) of this section shall file prepared testimony. Such testimony shall include an explanation of all exhibits, inlcuding Statements AA through BM, and shall include support for all adjustments to book or budgeted data relied on in preparing the exhibits.

(iii) To the extent that testimony and exhibits other than Statements AA through BM duplicate information required to be submitted in such statements, the testimony and exhibits may incorporate such information by referencing the specific statement containing such material.

(2) *Case in chief.* In order to avoid delay in processing rate filings, such cost of service statements, testimony, and other exhibits described in paragraph (e)(1) of this section shall be the utility's case in chief in the event the matter is set for hearing.

(3) *Burden of proof.* Any utility that files a rate increase shall be prepared to go forward at a hearing on reasonable notice on the data submitted under this section, to sustain the burden of proof under the Federal Power Act of establishing that the rate increase is just and reasonable and not unduly discriminatory or preferential or otherwise unlawful within the meaning of the Act.

(f) *Filing by parties concurring in coordination and interchange arrangements.* For coordination and interchange arrangements in the nature of power pooling transactions, all information required to be submitted in support of a rate schedule change under paragraphs (a)(1), (2) and (3) of this section shall be submitted by each party filing a certificate of concurrence under § 35.1. If a representative is designated and authorized in accordance with § 35.1 to file supporting information on behalf of all parties to a rate schedule change, such filing shall fulfill the requirement in this paragraph for individual submittals by each party.

(g) *Commission precedents and policy.* If a utility submits cost of service data under paragraph (d) of this section, it shall conform all such submissions to any rule of general applicability and to any Commission order specifically applicable to such utility.

(h) *Cost of service statements.* Any utility subject to paragraph (a)(1) of this section shall submit the following Statements AA through BM in accordance with the requirements of paragraphs (d) and (g) of this section.

(1) *Statement AA—Balance sheets.* Statement AA consists of balance sheets as of the beginning and the end of both Period I and Period II, and the most recently available balance sheet, including any applicable notes, and an explanation of any significant accounting changes since the most recent filing by the utility under this section that involves the same wholesale customer rate class. Balance sheets shall be constructed in accord-

ance with the annual report form for electric utilities specified in Part 141.

(2) *Statement AB—Income statements.* Statement AB consists of income statements for both Period I and Period II, and the most recently available income statement, including any applicable notes, and an explanation of any significant accounting changes since the most recent filing by the utility under this section that involves the same wholesale customer rate class. Income statements shall be prepared in accordance with the annual report form for electric utilities specified in Part 141.

(3) *Statement AC—Retained earnings statements.* Statement AC consists of retained earnings statements for both Period I and Period II, and the most recently available retained earnings statement, including any notes applicable thereto. Retained earnings statements shall be prepared in accordance with the annual report form for electric utilities specified in Part 141.

(4) *Statement AD—Cost of plant.* Statement AD is a statement of the original cost of total electric plant in service according to functional classification for Period I and Period II. If the plant functions and subfunctions for Period I and Period II are different, the utility shall explain and justify the differences.

(i) For each separately identified function and subfunction of production plant or transmission plant, the utility shall state the original cost as of the beginning of the first month and the end of each month of both Period I and Period II, with an average of the thirteen balances for each period. If any of the Period I or Period II thirteen monthly balances is not available or is unrepresentative of the current plan of the utility for plant in service, the utility shall provide an explanation of the relevant circumstances.

(ii) For each separately identified function and subfunction of plant other than production or transmission, the utility shall state the original cost as of the beginning and the end of both Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I or Period II balances is not available or is unrepresentative of the current plan of the utility for plant in service, the utility shall provide an explanation of the relevant circumstances.

(iii) The utility shall show the electric plant in service in accordance with each of the following five major functional classifications:

(A) Production;

(B) Transmission;

(C) Distribution;

(D) General and Intangible; and

(E) Common and Other.

(iv) To the extent feasible, the utility shall show completed construction not classified in accordance with clause (iii) in accordance with tentative classification to major functional accounts. If this is not feasible, the utility shall describe such facilities as other plant under clause (iii)(E).

(v) If a utility designs its rate change so that subdivision of the major functional classifications is necessary to support the changed rate, the utility shall supply the original cost information for any of the five major functional plant classifications in clause (iii) that are divided into subfunctional categories. If subfunctional original cost information is provided, the utility shall explain the importance of providing such information to support the changed rate. The utility shall describe each subfunctional category in substantive terms, such as "steam electric production" or "high voltage transmission."

(vi) The utility shall select any subfunctional categories, as appropriate, under the following criteria:

(A) Production plant categories shall be established as necessary to segregate costs for production services with special characteristics, such as base, intermediate or peaking load. The utility shall provide a description of each such service and shall list a brief descriptive title for each corresponding subfunctional category.

(B) Transmission plant categories shall be chosen to reflect the extent to which the facilities are proposed to be allocated on a common basis among all or specific segments of utility services. For descriptive purposes, plant may also be categorized according to accounting or engineering terminology, such as "high voltage overhead lines." The utility shall provide brief descriptive transmission category titles and explain the basis for the titles. If a utility allocates all transmission plant among utility services on the basis of a single set of allocation data, the utility may show original cost in total without subfunctionalization.

(C) Distribution plant categories shall be selected according to engineering or use characteristics meaningful for allocations or assignments to wholesale services such as substations, overhead lines, meters, or nonwholesale. The utility shall provide brief descriptive distribution category titles and shall explain the basis for the titles.

(D) If the utility divides any general, intangible, common, and other plant functional classifications into subfunctional categories, the subfunctional categories shall be chosen to group together facilities that share a common basis for allocation between wholesale and other electric services. The utility shall provide a brief descriptive title for each general and intangible subfunctional category, and for each common and other subfunctional category, with an explanation of the basis of each category selection. A utility need not divide the functional classifications of plant into subfunctional categories if these functions of plant are allocated in Statement BK on the basis of utility labor expenses.

(E) A separate category shall be provided for each specific assignment of plant reported in Statement BE. Such assignments are applicable principally but not necessarily exclusively to distribution facilities. The utility shall provide brief descriptive titles consistent with Statement BE.

(F) A separate category shall be provided for each exclusive-use commitment of major power supply facilities as required to be reported at Statement BF. The utility shall provide brief descriptive titles consistent with Statement BF.

(5) *Statement AE—Accumulated depreciation and amortization.* Statement AE is a statement of the accumulated provision for depreciation and amortization of electric plant for Period I and Period II, provided according to major functional classifications selected by the utility in Statement AD under paragraph (h)(4) an divided into the subfunctional categories selected by the utility in Statement AD, to the extent that subfunctionalized data are available.

(i) For each function and subfunction of electric production and transmission plant in service identified i Statement AD, the utility shall se forth the accumulated depreciatio and amortization as of the beginning of the first month and the end of each month of both Period I and Period II The utility shall state an average for each period computed as the average of the thirteen balances.

(ii) For each function and subfunction of electric plant in service other than production or transmission, identified in Statement AD, the utility shall state the accumulated depreciation and amortization as of the beginning and the end of Period I and Period II, with an average of the beginning and end balances for each period.

(iii) If any of the Period I or Period II balances is not available or is unrepresentative of the current plan of the utility for depreciation reserves, the utility shall provide an explanation of the relevant circumstances.

(iv) If accumulated depreciation and amortization data are not available for any subfunction selected in Statement AD, the utility shall:

(A) Provide a comparison of the current depreciation rate of the major functional classification and the depreciation rate estimated to be appropriate to the subfunctional category; and

(B) State and explain the estimation techniques which the utility proposes to utilize in the absence of subfunctional data, such as the proration of accumulated depreciation and amortization data among the subfunctional categories according to the data for electric plant in service in Statement AD. If any of the proposed estimation techniques require data that are not provided elsewhere in the cost of service statements in paragraph (h) of this section, the utility shall supply the necessary data in Statement AE.

(6) *Statement AF—Specified deferred credits.* Statement AF consists of balances of specified accounts and items which are to be considered in the determination of the net original cost rate base. All required balances are to be stated as of the beginning and end of both Period I and Period II, with an average of the beginning and end balances for each period. If any of the Period I and Period II balances is not available or is unrepresentative of the current operating plan of the utility, the utility shall include an explanation of the relevant circumstances. If subaccounts are maintained to reflect differences in ratemaking treatment among regulatory authorities that have jurisdiction, balances shall be provided in accordance with such subaccounts, with detailed explanations of the bases upon which the subaccounts were established and are maintained. The balances of deferred credits required to be filed in this statement are described in paragraph (h)(6) (i) through (v) of this section. All references to numbered accounts refer to the Commission's Uniform System of Accounts, 18 CFR Part 101.

(i) The utility shall state total electric balances for accumulated deferred investment tax credits Account 255, and shall separate the credits into balances applicable to pre-1971 and post-1970 qualifying property additions. If the utility maintains records to show Account 255 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall provide the component balances by function. If the data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AF the necessary data, such as historical functional patterns of plant additions eligible for the tax credits. The utility shall state whether the Internal Revenue Code General Rule, § 46(f)(1), is applicable with respect to restrictions on credit treatment for ratemaking purposes. If the General Rule is not applicable, the utility shall state which election it has made with respect to special rules for ratable or immediate flow-through for ratemaking purposes.

(ii) The utility shall state the total electric component balances for accumulated deferred income tax Account 281 pertaining to accelerated amortization property. The utility shall show separate components for defense, pollution control, and other facilities. The utility shall show balances for each component and totaled for the electric utility department. If the utility maintains records to show Account 281 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall provide such component balances. If data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AF the necessary data.

(iii) The utility shall state the total electric component balances for accumulated deferred income tax Account 282 pertaining to electric utility property other than accelerated amortization property. The utility shall itemize the balances in Account 282, to the extent data are available, in detail sufficient to identify the specific major properties involved and shall list the balances according to the accounting entries, such as liberalized depreciation, for which interperiod tax allocation was used and included in this account. Component balances shall be shown individually and in total for the electric utility department. If the utility maintains records to show account 282 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall provide such component balances by function. If the data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AF the necessary data, such as historical functional patterns of plant additions.

(iv) The utility shall state the total electric component balances for accumulated deferred income tax Account 283 pertaining to interperiod income tax allocations not related to property. The utility shall itemize in detail balances in Account 283, to the extent data are available, and shall list the balances according to the accounting entries for which interperiod tax allocation was used and included in this account. Component balances shall be shown individually and in total for the electric utility department. If the utility maintains records to show Account 283 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall provide such component balances by function. If the data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the filing shall supply in Statement AF the necessary data.

(v) The utility shall show electric utility balances for every other item that the utility believes should be included in Statement AF. The utility shall explain the reasons for inclusion of each item.

(7) *Statement AG—Specified plant accounts (other than plant in service) and deferred debits.* Statement AG is statement of balances of specified a counts and items that are to be consi ered in the determination of the ne original cost rate base. Except as pr scribed in clause (ii), the utility sha state all required balances as of th beginning and the end of Period I an Period II, with an average of the beginning and end balances for eac period. If any of the Period I or Perio II balances is not available or is unrepresentative of the current operatin plan of the utility, the utility shal provide a full explanation of the relevant circumstances. If subaccounts ar maintained to reflect differences i ratemaking treatment among regulatory authorities having jurisdiction the utility shall provide balances in accordance with such subaccounts, with detailed explanations of the base upon which the subaccounts were established and are maintained. The balances required to be submitted unde Statement AG are described in clause (7)(i) through (vi).

(i) For each separately identified major functional classification selected by the utility in Statement AD, the utility shall state the electric utility land and land rights balances for electric plant held for future use in account 105. If itemized in detail, balances shall be totaled for each major functional classification.

(ii) The utility shall state the electric utility component balances in Accounts 107 and 120.1, individually and in total, for each item of construction work in progress for pollution control facilities, fuel conversion facilities, or any other facilities that qualify for inclusion in rate base under § 35.26. The utility shall state such balances for each major functional and subfunctional classification under Statement AD as of the beginning of the first month and the end of each month of Period I and Period II with an average of the 13 balances for each period.

(iii) For each major functional classification under Statement AD and with respect to property otherwise includable in plant in service, the utility shall state the balances for extraordinary property losses Account 182. If itemized in detail, balances shall be totaled for each major functional classifica tion. The utility shall provide information about Commission authorization for any loss included in Account 182 and shall state when the loss was claimed for tax purposes.

(iv) For each major functional classification under Statement AD, the utility shall state the component balances for research, development and demonstration (RD&D) expenditures Account 188. The data shall include both the amounts charged to Account 188 and the amounts transferred to each expense account for each RD&D project.

(v) The utility shall state the total electric component balances for accumulated deferred income taxes Account 190. The component balances in Account 190 shall be itemized in detail and listed according to the accounting entries for which interperiod tax allocation was used. Component balances shall be shown individually and in total for the electric utility department. If the utility maintains records to show Account 190 component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall provide such component balances by function. If the data are not available by function, the filing utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AG the necessary data.

(vi) Balances shall be shown for every other item that the utility believes should be included in Statement AG. The utility shall provide support for inclusion of each item, and a brief descriptive title for each such item.

(8) *Statement AH—Operation and maintenance expenses.* Statement AH is a statement of electric utility operation and maintenance expenses for Period I and Period II provided according to the accounts prescribed by the Commission's Uniform System of Accounts, 18 CFR Part 101.

(i) For Period I and Period II, the utility shall itemize and subtotal all operation and maintenance expenses according to the major functional classifications of Statement AD in paragraph (h)(4) and the subfunctional categories of those classifications. The utility shall further divide the operation and maintenance expenses itemized under the production classification and each of its subfunctional categories to reflect expenses relating to the energy component (list each item by account number and compute fuel costs on an as-burned basis), the demand component, and any other production expenses.

(ii) For Period I and Period II, the utility shall report production operation and maintenance expenses according to appropriate account numbers. The utility shall apply the following principles in developing Period I and Period II production operation and maintenance data for this statement:

(A) Total production operation and maintenance expenses shall be segregated into energy, demand, and other components. The utility shall specifically state and support its criteria for classifications between energy and demand, and for use of the production "other" classification, such as specific assignments related to sales from particular generating units.

(B) Fuel expense for cost of service purposes shall be the total as-burned expense incurred. If the utility defers a portion of such expense for accounting purposes, the deferral amount shall be separately stated and accompanied by material that shows computational detail in support of such amount. If claimed nuclear fuel expense reflects a change in the estimated net salvage value of nuclear fuel, the utility shall show the amounts involved and explain the relevant circumstances.

(C) If the amount of production fuel expense is significantly affected by abnormal Period I water availability for hydroelectric generation, the utility shall explain how water availability was taken into account in developing projected Period II production fuel expenses.

(iii) For Period I and Period II, the utility shall report operation and maintenance expenses attributable to the transmission and distribution functions according to appropriate account numbers. If Period II transmission and distribution plant data are not provided by subfunctional category in Statement AD, the utility need only provide for Period II total operation and maintenance expenses for each function.

(iv) For Period I and Period II, the utility shall report in total for each period, operation and maintenance expenses incurred under each of the categories of customer accounting, customer service and information, and sales.

(v) For Period I and Period II, the utility shall itemize administrative and general expenses by groups that are directly assignable, such as regulatory Commission expenses, or that are related to selected plant or expense items for which an allocation to wholesale services is independently determinable, such as items related to labor expense or to a category of production plant in service. Administrative and general expenses shall include a detailed itemization of the general advertising Account 930.1 and the miscellaneous general expenses Account 930.2. If Account 930 data are not projected on a detailed basis for Period II, the utility shall provide its best estimate of the Account 930.1 expense items and a descriptive list of expense items anticipated as miscellaneous general expenses in Account 930.2. Where applicable, separate items shall be shown for general plant maintenance, and for common and other plant maintenance.

(vi) In addition to annual production data for Period I and Period II, the utility shall provide monthly expense data by accounts for fuel in Accounts 501, 518, and 547 and purchased power in Account 555. For each type of transaction, such as firm power or economy interchange power, monthly purchased power expense data shall be subtotaled separately for interchange receipts and deliveries. For monthly fuel Accounts 501, 518, and 547, and for each type of purchased power transaction, the monthly data shall identify components to be claimed under the fuel adjustment clause of the utility.

(9) *Statement AI—Wages and salaries.* Statement AI consists of statements of the electric utility wages and salaries, for Period I and Period II, that are included in operation and maintenance expenses reported in Statement AH.

(i) For Period I and Period II, the utility shall show the distribution of wages and salaries by function according to the form prescribed for operation and maintenance expenses by the Commission's Uniform System of Accounts, 18 CFR Part 101. The statement shall also include by function additional wages and salaries attributable to common and other plant classifications identified in Statement AD in paragraph (h)(4).

(ii) For Period I and Period II, the utility shall show total production wages and salaries, itemized and subtotaled into energy and demand related components in accordance with classifications of Statement AH operation and maintenance production expenses of which production wages and salaries are a part.

(10) *Statement AJ—Depreciation and amortization expenses.* Statement AJ consists of statements of depreciation and amortization expenses for Period I and Period II.

(i) For Period I and Period II, the utility shall show the depreciation and amortization expenses and the depreciable plant balances of the filing utility, in accordance with major functional classifications selected by the utility in Statement AD under paragraph (h)(4).

(ii) The utility shall divide the major functional classifications of depreciation and amortization expenses shown in clause (i) into the subfunctional categories selected by the utility for electric plant in service in Statement AD, to the extent such data are available.

(iii) If depreciation and amortization expense data are not available for any subfunctional category selected in Statement AD, the utility shall:

(A) Provide a comparison of the current depreciation rate of the major functional classification and the depreciation rate estimated to be appropriate to the subfunctional category; and

(B) State and explain the estimation techniques that the utility utilized in developing each estimated subfunctional depreciation rate. If utilization of such estimation techniques requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply such data in Statement AJ.

(iv) For Period I and Period II, the utility shall show the annual depreciation rate applicable to each function and subfunction for which depreciation expense is reported. The utility shall indicate the bases upon which the depreciation rates were established. If the depreciation rates used for Period I or Period II data differ from those employed to support the utility's prior approved jurisdictional electric rate, the utility shall include in or append to Statement AJ detailed studies in support of such changes. These detailed studies shall include:

(A) Copies of any reports or analyses prepared by any independent consultant or utility personnel to support the proposed depreciation rates; and

(B) A detailed capital recovery study showing by primary account the depreciation base, accumulated provision for depreciation, cost of removal, net salvage, estimated service life, attained age of survivors, accrual rate, and annual depreciation expense.

(11) *Statement AK—Taxes other than income taxes.* Statement AK consists of statements of taxes other than income taxes for Period I and Period II.

(i) For Period I and Period II, the utility shall itemize and total any taxes other than income taxes according to clauses (i) (A) through (D).

(A) *Revenue taxes.* The utility shall show total revenue taxes levied by each taxing authority and identify the revenue taxes, under both the present and changed rate, applicable to wholesale services for which a rate change is filed. The utility shall identify revenue taxes associated with each revenue credit item reported in Statement AU under paragraph (h)(21).

(B) *Real estate and property taxes.* The utility shall itemize and total all real estate and property taxes. If the utility maintains records to show tax component balances according to the major functional classifications identified in Statement AD under paragraph (h)(4), the utility shall supply the component balances by function. If the data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply the necessary data in Statement AK.

(C) *Payroll taxes.* The utility shall itemize and total all payroll taxes. If the utility maintains records to show tax component balances according to the major functional classifications identified in Statement AD in paragraph (h)(4), the utility shall provide the component balances by function. If the data are not available by function, the utility shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall provide the necessary data in Statement AK.

(D) *Miscellaneous taxes.* The utility shall itemize and total all miscellaneous taxes which are directly assignable or which are related to any selected plant or expense item for which an allocation to wholesale services is independently determinable, such as items related to transmission plant in service or to net distribution plant.

(ii) If any of the taxes itemized under clause (11)(i) are levied by a taxing authority that is a customer, or is related to a customer, whose services would be affected by the changed rate schedule, the utility shall show amounts of such taxes according to the taxing authority, identify the related customer, and provide an explanation of the relevant circumstances.

(12) *Statement AL—Working capital.* Statement AL consists of statements for Period I and Period II designed to establish the need for working capital to maintain adequate levels of operating supplies, to meet required prepayments, and to meet ongoing cash disbursements that must be made at a time different than related revenue receipts for utility services rendered.

(i) *Supplies and prepayments.* The utility shall supply statements to show monthly balances of operating supplies and prepayments itemized under clauses (i) (A) through (C). The utility shall state all required balances as of the beginning of the first month and the end of each month of both Period I and Period II, with an average of the thirteen balances for each period. If any of the Period I or Period II balances is not available or is unrepresentative of the current operating plan of the utility for supplies or prepayments, the utility shall include an explanation of the relevant circumstances. Operating supply and prepayment balances shall be itemized under the following categories:

(A) *Fuel supplies.* The utility shall state the fuel supply balances for each type of electric utility production plant, except hydraulic. The utility shall describe its overall fossil fuel supply objectives for Period I and Period II, in terms of projected average days of burn for major fossil fuel generating stations, if feasible. The utility shall explain substantial differences, if any, between actual Period I inventories and the target objectives, or between Period II objectives and Period I objectives. Nuclear fuel balances shall include fuel in stock, fuel in the reactor and spent fuel in the process of cooling in Accounts 120.2, 120.3, 120.4, less accumulated provisions for amortization of nuclear fuel assemblies in Account 120.5.

(B) *Plant materials and operating supplies.* The utility shall state materials and operating supply balances for each of the major electric utility operating functions of production, transmission, and distribution, and for each significant type of miscellaneous operating supplies. Miscellaneous supplies shall be grouped to facilitate suitable allocations or assignments among utility services.

(C) *Prepayments.* The utility shall indicate prepayment balances for each major prepayment item, with a brief description of the item. Balances shall be grouped and subtotaled to facilitate suitable allocations or assignments among utility services.

(ii) *Cash working capital.* The utility shall indicate average monthly working cash requirements that reflect the extent to which day-to-day operational utility service revenues are received later or earlier than cash disbursements necessary to provide the services, with an explanation of how such requirements are derived.

(13) *Statement AM—Construction work in progress.* Statement AM is a statement of the amount of construction work in progress described according to functional classification for Period I and Period II. For production plant and transmission plant, the utility shall state the balances as of the beginning of the first month and the end of each month of both Period I and Period II, with an average of the 13 balances for each period. For each function of plant identified in Statement AD other than production or transmission, the utility shall state the balances as of the beginning and the end of both Period I and Period II, with an average of the beginning and end balances for each period. If any Period I or Period II balance is not available, the utility shall include monthly estimates and an explanation of the relevant circumstances. Pollution control facilities, fuel conversion facilities, or other construction amounts reported in Statement AG shall be excluded from amounts reported in this Statement.

(14) *Statement AN—Notes payable.* Statement AN is a statement of the electric utility portion of average notes payable for Period I and Period II. The utility shall indicate balances as of the beginning of the first month and the end of each month of both Period I and Period II, with an average of the thirteen balances for each period. If any of the Period I or Period II balances is not available or is unrepresentative of the current financing

plan of the utility, the utility shall provide an explanation of the relevant circumstances. If a utility has operations other than electric, the utility shall also show allocations between electric and other utility departments on an appropriate basis, such as the average amount of construction work in progress and net plant.

(15) *Statement AO—Rate for allowance for funds used during construction.* Statement AO is a statement of the basis of the rate for computing the allowance for funds used during construction (AFUDC) for Period I and Period II.

(i) The utility shall show the computations of the maximum rates for the construction allowances computed in accordance with plant instructions of the Commission's Uniform System of Accounts, 18 CFR Part 101. The utility shall show the rates computed annually, and shall provide the rates for each annual period that includes any part of Period I or Period II. If the utility proposes to use a net-of-tax rate, the utility shall show the derivation for both the gross-of-tax and net-of-tax rates.

(ii) If the book allowance amounts of AFUDC do not reflect the maximum rates for allowances for funds computed in accordance with clause (i), the utility shall show the derivation for the actual rates utilized in computing AFUDC, including derivation of any net-of-tax rate utilized by the utility.

(16) *Statement AP—Federal income tax deductions—interest.* Statement AP is a statement of electric utility interest charges for Period I and Period II. For each period, the utility shall state the total electric utility interest in terms of three or more component items described in clauses (i) through (iv).

(i) The utility shall state the allowance for borrowed funds used for electric utility construction Account 432 as a separate component. The utility shall show supporting detail, including computation of the amounts on the basis of AFUDC rates claimed in Statement AO.

(ii) The utility shall state interest for borrowed funds used for electric utility construction Account 431 as a separate component. If applicable, the utility shall also show all elements of Account 431 related to purposes other than electric utility construction, with detailed supporting material, such as a computation of allocations between electric and other utility departments with explanatory material to support the bases of such allocations.

(iii) The utility shall state the interest on long-term debt required for electric rate base investment as a separate component. The interest amount shall be consistent with that shown and utilized in Statement BK under paragraph (h)(36) of this section.

(iv) The utility shall show other interest items appropriate in the determination of net taxable income allocable to the wholesale services at issue. The utility shall describe and support each item and shall accompany each item with a statement of the basis on which the item is allocable to the wholesale services. The utility shall also list a short descriptive title for each item.

(17) *Statement AQ—Federal income tax deductions—other than interest.* Statement AQ is a statement of other deductions from net operating income before Federal income taxes, for Period I and Period II, which deductions are appropriate in determining the net taxable income allocable to the wholesale services subject to the changed rate. The utility shall show unallowable deductions as negative entries in this statement. The utility shall itemize deductions in accordance with clause (i) through (iii) and individually identify each by a brief descriptive title.

(i) The utility shall report, as a separate component of this statement, the difference between tax and book depreciation, in total, or in individual amounts based on the Internal Revenue Code provisions that permit the utility to use various methods of computing depreciation for tax purposes, such as liberalized depreciation or the asset depreciation range. If the utility reports the differences in total only, it shall list the specific Internal Revenue Code provisions that result in the difference.

(ii) The utility shall state taxes and pensions capitalized as a separate component.

(iii) The utility shall describe and support other deduction items appropriate in the determination of net taxable income allocable to the wholesale services. Each item shall be accompanied by a brief explanation of the basis on which the item is allocable to the wholesale services.

(18) *Statement AR—Federal tax adjustments.* Statement AR is a statement of adjustments to Federal income taxes for Period I and Period II. If subaccounts are maintained to reflect differences in ratemaking treatment among regulatory authorities having jurisdiction, the utility shall provide adjustment amounts in accordance with such subaccounts. The utility shall report detailed explanations of the bases upon which the subaccounts were established and are maintained.

(i) For each major function of plant identified in Statement AD under paragraph (h)(4), the utility shall state the electric utility component adjustment for the Federal portions of the provision for deferred income tax Account 410.1. If the data are not available by function, the utility shall state the amounts for the total electric utility and shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balances obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AR the necessary data. The utility shall provide the adjustment amounts for total electric and, to the extent available for each such major functional component, accompanied by summary totals segregated in accordance with related balance sheet Accounts 281, 282, 283, and 190 [*see* Statements AF and AG]. Account 190 items require a negative sign for entries in Statement AR. The utility shall identify the summarized items by account number.

(ii) The utility shall provide for the Federal portions of the provision for deferred income tax-credit Account 411.1 the data required by clause (i for Account 410.1.

(iii) For each major functional classification of plant identified in Statement AD under paragraph (h)(4), the utility shall provide the electric utility component for investment tax credits generated for Period I and Period II, credits utilized for each period, and the allocations to current income for each period. If the data are not available by function, the utility shall state the amounts for total electric utility and shall describe the procedure by which the utility believes it can reasonably estimate the portion of the total electric balances for each major functional classification. The utility may show by function the component balance obtained by applying the procedure. If such estimation requires data that are not provided elsewhere in the cost of service statements in this paragraph, the utility shall supply in Statement AR the necessary data. If itemized in detail, balances shall be subtotaled for each major function, and totaled for the electric utility department. Detailed data shall be consistent with that provided in Statement AF under paragraph (h)(6) of this section.

(iv) The utility shall list and designate as other adjustment items any additional Federal income tax adjustments and shall provide a brief descriptive title for each item. The utility shall explain the reasons for inclusion of each item, and shall indicate the basis on which each will be assigned or allocated to the wholesale services subject to the changed rate and to the other electric utility services.

(19) *Statement AS—Additional state income tax deductions.* Statement AS is a listing of state income tax deductions for Period I and Period II, in addition to those listed at Statements AP and AQ for Federal tax purposes. The utility shall explain the reasons for inclusion of each item. The utility shall indicate the basis on which each item is to be assigned or allocated to the wholesale services at issue and to the other electric utility services. If applicable, the utility shall show unallowable deductions as negative entries in this statement. The utility shall pro-

vide the percentage of Federal income tax payable which is deductible for state income tax purposes, if applicable. [*See also* Statement AY, dealing with tax rate data.]

(20) *Statement AT—State tax adjustments.* Statement AT is a statement of adjustments to state income taxes for Period I and Period II. The utility shall prepare and present the data in statement AT as prescribed for Federal tax adjustments in Statement AR. The utility shall annotate Statement At data as necessary to identify state tax adjustments that are not properly deductible for Federal tax purposes.

(21) *Statement AU—Revenue credits.* Statement AU is, for Period I and Period II, a statement of the operating revenue balances in Accounts 450 through 456, and other revenue items, such as short-term sales in Account 447, that are appropriately credited to the cost of service for determinations of costs allocable to the wholesale services subject to the changed rate. The utility shall include revenue credits proposed for exclusive-use commitment of major power supply facilities according to instructions for preparation of Statement BF under paragraph (h)(31) of this section. When applicable, the utility shall state revenue taxes for each revenue credit item. The utility shall explain the reasons for inclusion of each item, and shall indicate the basis for assigning or allocating each item to the wholesale services subject to the changed rate and to the other electric utility services.

(22) *Statement AV—Rate of return.* Statement AV is a statement and explanation of the percentage rate of return requested by the utility. The utility shall provide the complete capital structure, including ratios, component costs and weighted component costs claimed by the utility. The utility shall submit additional data where any component of the capital of the utility is not primarily obtained through its own financing, but is primarily obtained from a company by which the utility is controlled, as defined in the Commission's Uniform System of Accounts, 18 CFR Part 101. The utility shall submit the additional data, if required with respect to the debt capital, preferred stock capital and common stock capital of such controlling company or any intermediate company through which such funds have been secured.

(i) *General.* The utility shall show, based on the capitalization of the utility, the cost of debt capital and preferred stock capital, the claimed rate of return on the common equity of the utility and the resulting overall rate of return requested.

(A) For Period I and, if applicable, Period II, the utility shall show in tabular form the following:

(*1*) Cost of each capital element, including claimed rate of return on equity capital;

(*2*) Capitalization amounts and ratios;

(*3*) Weighted cost of each capital element; and

(*4*) Overall claimed rate of return.

(B) When a Period II filing is submitted the utility shall provide:

(*1*) A full explanation of, and supporting work papers for, the *pro forma* adjustments to the actual capitalization data to arrive at the Period II capitalization; and

(*2*) The *pro forma* adjustment to Period I data to arrive at the Period II amount for unappropriated undistributed subsidiary earnings in Account 216.1.

(C) If not included elsewhere in the filing, the utility shall submit the amount for Account 216.1 for Period I as part of this statement.

(ii) *Debt capital.* (A) The utility shall show the weighted cost for all issues of long-term debt capital as of the end of Period I, as expected on the date the changed rate is filed, and, if applicable, as estimated for the end of Period II. The weighted cost is calculated by: (*1*) Multiplying the cost of money for each issue under clause (B)(*6*) below by the principal amount outstanding for each issue, which yields the annualized cost for each issue; and (*2*) adding the annual cost of each issue to obtain the total for all issues, which is divided by the total principal amount outstanding for all issues to obtain the weighted cost for all issues.

(B) The utility shall show the following for each class and series of long-term debt outstanding as of the end of Period I, as expected on the date the changed rate is filed, and, if applicable, as estimated to be outstanding as of the end of Period II.

(*1*) Title;

(*2*) Date of offering and date of maturity;

(*3*) Interest rate;

(*4*) Principal amount of issue;

(*5*) Net proceeds to the utility;

(*6*) Cost of money, which is the yield to maturity at issuance based on the interest rate and net proceeds to the utility determined by reference to any generally accepted table of bond yields;

(*7*) Principal amount outstanding;

(*8*) Name and relationship of issuer and if the debt issue was issued by an affiliate; and

(*9*) If the utility has acquired at a discount or premium some part of the outstanding debt which could be used in meeting sinking fund requirements, or for some other reason, the annual amortization of the discount or premium for each issue of debt from the date of the reacquisition over the remaining life of the debt being retired. The utility shall show separately the total discount and premium to be amortized, and the amortized amount applicable to Period I and, if applicable, Period II.

(C) The utility shall show the before-tax interest coverage, for the twelve months of Period I based on the indenture requirements. The utility shall provide a copy of the work papers used to make the calculations, with explanations appropriate to understand the calculations.

(iii) *Preferred stock and preference stock capital.* (A) This statement shall show the weighted cost for all issues of preferred and preference stock capital as of the end of Period I, as expected on the date the changed rate is filed, and, if applicable, as estimated for the end of Period II. The weighted cost is calculated by: (*1*) Multiplying the cost of money for each issue under clause (B)(*9*) by the par amount outstanding for each issue, which yields the annualized cost for each issue; and (*2*) adding the annual cost of each issue to obtain the total for all issues, which is divided by the total par amount outstanding for all issues obtain the weighted cost for all issu

(B) The statement shall show each class and issue of preferred a preference stock outstanding as of t end of Period I, as expected on t date the changed rate is filed, and, applicable, as estimated to be o standing as of the end of Period II:

(*1*) Title;

(*2*) Date of offering;

(*3*) If callable, call price;

(*4*) If convertible, terms of conve sion;

(*5*) Dividend rate;

(*6*) Par or stated amount of issue;

(*7*) Net proceeds to the filing utilit

(*8*) Ratio of net proceeds to gro proceeds received by the filing utilit

(*9*) Cost of money (dividend rate d vided by the ratio of net proceeds t gross proceeds for each issue);

(*10*) Par or stated amount outstand ing; and

(*11*) If issue is owned by an affiliat name and relationship of owner.

(iv) *Common stock capital.* Th statement shall show the following in formation for each sale of commo stock during the five-year period pre ceding the date of the balance shee for the end of Period I and for eac sale of common stock between the en of Period I and the date that th changed rate is filed:

(A) Number of shares offered;

(B) Date of offering;

(C) Gross proceeds at offering price

(D) Underwriters' commissions;

(E) Dividends per share;

(F) Net proceeds to company;

(G) Issuance expenses; and

(H) Whether issue was offered t stockholders through subscriptio rights or to the public and whethe common stock was issued for propert or for capital stock of others.

(v) *Supplementary financial data.* The utility shall submit a statemen indicating the sources and uses of funds for Period I and as estimated for Period II and a copy of the utility's most recent annual report to the stockholders. The utility shall also supply a prospectus for its most recent issue of securities and a copy of the latest prospectus issued by any subsidiary of the filing utility or by any holding company of which the filing utility is a subsidiary.

(23) *Statement AW—Cost of short-term debt.* In Statement AW, the utility shall provide a statement of the cost of capital rate for short-term debt of the utility as of the end of Period I, as expected on the date the proposed rate is filed, and, if applicable, as estimated for the end of Period II, with details supporting each stated cost. The short-term debt rate shown in Statement AW shall include only the short-term debt that appears on the income statement as interest expense and shall not include nominal forms of financing, such as trust agreements.

(24) *Statement AX—Other recent and pending rate changes.* Statement AX is a statement describing the extent to which operating revenues are subject to refund for Period I and, if applicable, Period II, for each rate change filed with any Federal, state, or other regulatory body that has jurisidiction. The utility shall list and submit any orders in which applications for a rate increase have been acted on by any regulatory body during Period I, Period II, or the interval between Period I and Period II, and a copy of each transmittal letter or equivalent written document by which a utility summarized and submitted any pending applications that have not been acted on. Statement AX shall reflect information available at the time of submittal under this paragraph.

(25) *Statement AY—Income and revenue tax rate data.*

(i) Statement AY is a statement of tax rate data for Period I and Period II arranged as follows:

(A) Nominal Federal income tax rate;

(B) Nominal state income tax rate;

(C) Proportion of Federal income taxes payable which is deductible for state income tax purposes. If an allowable deduction is stated in other terms, the utility shall provide an estimate of the effective deduction as a percentage of Federal tax payable; and

(D) Revenue tax rate. If the revenue tax rate is scaled, the utility shall show approximate weighted average rates for relevant revenue levels and full supporting data.

(ii) If the utility serves in more than one jurisdiction for revenue or state income tax purposes, the utility shall state the appropriate tax rates for each wholesale customer group at issue and for all other customers as a composite group. [*See*, Statement BA under paragraph (h)(26) for wholesale customer grouping criteria.] If there are any changes in tax rates that occur in Period I or that may occur in Period II, the utility shall describe such changes and the effective date of the changes.

(26) *Statement BA—Wholesale customer rate groups.* (i) Statement BA is a list of wholesale customers by group for the purpose of:

(A) Allocating the allowable costs of the utility to such customer groups on the basis of electric utility services rendered; and

(B) Comparing proposed revenues from each customer group with the cost of service as allocated to that group.

(ii) The utility shall limit the number of wholesale customer groups listed to the minimum required under the following criteria:

(A) At least one customer group shall be specified for each separate wholesale rate subject to the changed rate filing.

(B) In general, all customers proposed to be served on the same rate shall be included in a common group. If the utility believes that there are significant differences in services provided under the same rate, the utility shall subdivide the common group served by the same rate into separate customer groups characterized by the type of service provided each group and shall demonstrate whether the common rate is cost-based by means of cost-justification for each service group. Certain customer groupings, such as cooperatives or municipals, may also be utilized to facilitate purchaser evaluations of the changed rate.

(C) In all cases, the utility shall select customer groupings on a basis consistent with rate design information provided in Statement BL under paragraph (h)(37) of this section.

(iii) The utility shall enumerate all wholesale customer rate groups, together with a brief descriptive title for each group. For example:

Group 1. Full Requirements Tariff FR-1.

Group 2. Partial Requirements Tariff PR-1.

(27) *Statement BB—Allocation demand and capability data.* Statement BB is a statement of electric utility demand and capability data for Period I and Period II to be considered as a basis for allocating related costs to the wholesale services subject to the changed rate.

(i) For each month of Period I and Period II, with an average for each period, the utility shall show the maximum peak firm kilowatt demand on the power supply system of the utility, and the kilowatt demands of the wholesale services that coincide with the system monthly maximum power supply demand, including for Period I the date and hour for such coincidental peak demands. The utility shall state these kilowatt demands in terms of 60-minute intervals or other intervals adjusted to the equivalent of 60 minutes. The utility shall not include in the data the demands associated with interruptible power supply services, firm or nonfirm transmission wheeling services, or demands associated with other services the revenues from which are shown as revenue credits in Statement AU under paragraph (h)(21). The utility shall provide wholesale service demand data as follows:

(A) The wholesale service data for each individual customer delivery point or set of delivery points that constitutes an individual wholesale customer billing unit shall include demands at delivery. The individual customer wholesale service data shall be summarized and subtotaled in accordance with Statement BA customer groupings.

(B) The data supplied for each wholesale customer group under clause (A) shall be adjusted for losses to reflect demand at the power supply level. The data shall be totaled to show total customer group demand at power supply level for each month of Period I and Period II.

(ii) To the extent such data are available, the utility shall state Period I and Period II monthly maximum demand data for interruptible power supply services, firm wheeling services, and nonfirm wheeling services. The utility shall also provide, to the extent data are available, firm wheeling demand data for any of the 60-minute periods that coincide with the times of power supply peak demands shown under clause (i). The utility shall indicate the basis of all demands, such as metered demands or contract demands, reported under this clause. For interruptible services, the utility shall provide a description of the conditions under which service may be interrupted or curtailed. The utility shall include available information on actual interruptions or curtailments during a three-year period that includes Period I. If any of the wholesale rates at issue are for interruptible or curtailable service, the utility shall provide any demand data specifically relevant to such service.

(iii) If a utility establishes plant categories in Statement AD under paragraph (h)(4) of this section for the purpose of supporting wholesale rates for firm power supply services with special characteristics, such as base load, intermediate, or peaking, the utility shall provide in Statement BB the demand data required by clause (i) in total and in separate corresponding demand values consistent with the service characteristics. Corresponding values shall be stated for the system demand of the utility, and for each applicable wholesale service group.

(iv) If a utility establishes plant categories in Statement AD under paragraph (h)(4) of this section for the purpose of supporting wholesale rates for nonfirm power supply services, such as capacity sales, the utility shall include in Statement BB for each month of Period I and Period II the monthly capability data relied on by the utility in developing costs allocable to such rates, with an explanation of the underlying cost allocation rationale.

(v) If a utility establishes production plant categories in Statement AD under paragraph (h)(4) of this section for the purpose of supporting wholesale rates based on specialized ratemaking theories such as marginal cost pricing, time-of-day pricing, or base, intermediate, and peaking characteristics, the utility shall include in Statement BB all demand and capability data relied on by the utility in developing support on a cost of service basis, with appropriate explanatory material.

(vi) For each month of Period I and Period II, the utility shall provide any additional demand data that the utility believes to be relevant to the allocation of electric utility costs to the wholesale services at issue. The utility shall fully support all such data and shall explain the rationale and the specific application proposed.

(vii) Based upon information reported in Statements BB and BC, the utility shall list selected months that are normally the months of greatest significance in determining the need of the utility for power supply capability throughout the year. All twelve months may be selected, if appropriate. In its selection, the utility shall take into account any effects of local weather seasons and, particularly, the extent to which peak demands may tend to be similar in magnitude in two or more months of a weather season. The utility shall explain the reasons for the selections and describe the significance for the selections of seasonal variations in the weather.

(28) *Statement BC—Reliability data.* Statement BC is a statement relating to reference standards of the filing utility for electric power supply reliability, and to information designed to reflect monthly availability of generating capacity reserves.

(i) For Period II, Period I, and each of the three calendar years preceding Period I, the utility shall state and briefly explain its objective reference standard of production power supply reliability and the rationale underlying its choice of a reliability standard, including whether it participates with other electric utilities in the selection of a common standard on an area or pool basis. The utility shall identify any such participating utilities, and provide a general explanation of the basis upon which the reliability standard was jointly developed.

(ii) The utility shall describe how its objective standard for production power supply reliability affects its electric generating facility construction planning and purchased power planning.

(iii) For the peak day of each month of Period II, Period I, and, to the extent data are available, for the peak day of each month of the three calendar years preceding Period I, the utility shall include tabular schedules designed to show the following:

(A) Net peak load in megawatts, itemized to show:

(*1*) Gross peak firm load, including all firm sales assured available by the reserve capacity of the utility;

(*2*) All firm purchases assured available by the reserve capacity of the supplier; and

(*3*) Net peak load, computed as gross peak load under clause (*1*) minus all firm purchases under clause (*2*).

(B) Net available dependable capacity, that is, the load-carrying ability of the electric production facilities determined for the purpose of scheduling capacity in day-to-day operations, provided in megawatts and itemized to show:

(*1*) The owned dependable capacity of the utility for each production plant category selected in Statement AD under paragraph (h)(4);

(*2*) Scheduled maintenance of owned dependable capacity of the utility;

(*3*) Purchased dependable capacity of the utility;

(*4*) Scheduled maintenance of purchased dependable capacity of the utility; and

(*5*) Net available dependable capacity, computed as the owned dependable capacity under clause (*1*), minus scheduled maintenance of owned capacity under clause (*2*), plus purchased dependable capacity under clause (*3*), minus scheduled maintenance of purchased capacity under clause (*4*).

(C) Available reserves in megawatts, which is the net available dependable capacity under clause (iii)(B) minus net peak load under clause (iii)(A).

(D) Available reserves as a percent of peak load, which is the available reserves under clause (iii)(C) divided by net peak load under clause (iii)(A).

(29) *Statement BD—Allocation energy and supporting data.* Statement BD is a statement of electric

utility energy data for Period I and Period II to be considered as bases for allocating related costs to the wholesale services subject to the changed rate.

(i) For each month of Period I and Period II, and as totaled for the twelve months of each period, the utility shall show the megawatt-hours of firm power supply energy required by the system of the utility and the magawatt-hour energy requirements of the wholesale customer groups whose services will be subject to the changed rate. The wholesale service data for each individual customer delivery point or set of delivery points that constitutes an individual wholesale customer billing unit shall include megawatt-hours at delivery. The utility shall summarize and subtotal these individual customer data in accordance with Statement BA customer groupings under paragraph (h)(26). The utility shall show a loss adjustment for each wholesale customer group to reflect energy at the power supply level. The utility shall total the data to show total customer group energy requirements at power supply level for each month of Period I and Period II.

(ii) Data provided under clause (i) shall not include energy associated with interruptible or curtailable services, or energy associated with other services, the revenues from which are shown as revenue credits in Statement AU under paragraph (h)(21) of this section. The utility shall separately state Period I and Period II monthly and total energy data for any such services provided by the utility. If any of the proposed wholesale rates at issue are for interruptible or curtailable service, the utility shall provide descriptive material and energy data specifically relevant to such services.

(iii) If a utility selects subfunctional categories in Statement AD under paragraph (h)(4) of this section for the purpose of supporting any changed wholesale rate for firm power supply services with special characteristics, such as base load, intermediate, and peaking services, the utility shall separate the energy data required by clause (i) into corresponding energy values consistent with the service
characteristics and consistent w
energy-related expense categories
lized in Statement AH under pa
graph (h)(8) of this section. The u
ty shall state the corresponding val
for the utility's system energy and
each applicable wholesale serv
group.

(iv) If a utility establishes plant c
egories in Statement AD under pa
graph (h)(4) of this section for
purpose of supporting any chang
wholesale rate for nonfirm producti
services, or the changed wholesale r
based on specialized ratemaking th
ries [see paragraph (h)(27)(v) of t
section], the utility shall include
Statement BD all energy data rel
on by the utility in developing t
support on a cost of service basis a
relevant explanatory material. Ener
data provided under this clause sh
be consistent with related expense c
egories utilized in Statement A
under paragraph (h)(8) of this sectio

(v) For each month of Period I a
Period II, and as totaled for the twel
months of each period, the utili
shall show the megawatt-hours gene
ated, itemized in accordance wi
Statement AD production subfun
tional categories, and the megawa
hours purchased or interchange
itemized to show each type of transa
tion, such as firm energy or econom
interchanged energy. The utility sha
quantitatively reconcile such da
with the system allocation energy r
ported in this statement, and wit
energy data underlying the fuel an
purchased power expense reported
Statement AH.

(30) *Statement BE—Specific assig
ment data.* (i) Statement BE is a stat
ment of specific components of th
electric costs of service of the utilit
for Period I and Period II. Statemen
BE costs of service are those appo
tioned among wholesale services sub
ject to the rate change and other util
ty services, on a basis other than:

(A) Demand, capability, or energ
data provided in Statements BB an
BD;

(B) A proportional relationshi
based on a selected plant category o
expense item for which an allocation
to wholesale services is to be independ
ently determined; or

(C) Exclusive-use commitment in Statement BF under paragraph (h)(31) of this section.

(ii) The utility shall include specific assignments considered appropriate by the utility. Typical cost of service components that could be specifically assigned are distribution plant [*see* examples listed in Statement AD under paragraph (h)(4) of this section], certain total electric wages and salaries provided in Statement AI under paragraph (h)(9) of this section, such as wages and salaries for customer accounting and for customer service and information, and certain administrative and general expense items. [*See* examples listed in Statement AH under paragraph (h)(8) of this section.]

(iii) The utility shall limit specific assignments to the minimum required to adequately provide for costs not otherwise appropriately allocable.

(iv) For each specific assignment, the utility shall include at least the following information:

(A) Brief descriptive component title, such as "distribution substations" or "rate case expenses";

(B) Total electric amount in dollars;

(C) Wholesale customer group dollar amounts stated individually for each wholesale customer rate group identified in Statement BA under paragraph (h)(26), and stated in total for all such groups; and

(D) Explanation of the basis on which assignments were made, accompanied by supporting detailed computations.

(31) *Statement BF—Exclusive-use commitments of major power supply facilities.* Statement BF is a statement describing and justifying the commitment to exclusive-use for particular services of all or a stated portion of electric utility generation units or plants, or major transmission facilities.

(i) For Period I and Period II, the utility shall list each transaction in which all or a stated portion of the output of a specified filing utility-owned generating unit or group of units was committed exclusively to a particular customer or group of customers, or to a power pool or similar power supply entity. For each such transaction, the utility shall provide the following information:

(A) Brief descriptive title for each commitment;

(B) Name of plant and unit designation;

(C) Name of the purchaser or power pool or other similar power supply entity;

(D) Duration of the transaction;

(E) Basis of rates or charges, stated in terms of whether a transaction reflects marginal, incremental, or fully distributed costs, the specific overall and common equity rates of return included in costs, provided on both a claimed and earned basis to the extent such information is available, the approximate date of the cost analysis on which the rates and charges were based, and any other considerations significant to the transaction;

(F) Revenue received for each month of Period I and Period II or, if applicable, monthly quantities of power and energy received or available from power pools as consideration for commitment to a pool; and

(G) Proposed treatment in the cost of service determinations for the wholesale services at issue. For example, a credit of revenue to the total electric cost of service, in Statement AU under paragraph (h)(21), could be proposed to account for unit capacity sales based upon incremental capital costs. The utility shall include explanatory material and support for the proposed procedures.

(ii) For Period I and Period II, the utility shall list each transaction in which all, or a portion, of a major transmission facility owned by the filing utility was committed exclusively to a particular customer or group of customers. For each such transaction, the utility shall provide information similar to that required by clause (i).

(32) *Statement BG—Revenue data to reflect changed rates.* Statement BG is a statement of revenues for Period I and Period II, including those under the changed rate for the wholesale services at issue.

(i) For each month of Period I and Period II, and in total for each of the two periods, the utility shall show all billing determinants and metered quantities for each delivery point or set of delivery points that constitutes an individual wholesale customer billing unit, and the result of applying each specific rate component to the billing determinants for each billing unit stated with the total of the computed monthly bill for the customer. If the rates include a fuel clause, the utility shall compute and total the revenues under the fuel clause to reflect fuel costs incurred during each month of Period I and Period II. That is, the fuel clause revenues for the first month of Period I shall reflect fuel costs incurred for that month, and so on for each month of Period I and Period II. In computing fuel clause revenues, the utility shall determine fuel cost according to § 35.14 of this chapter.

(ii) If the form of the proposed fuel clause would produce revenues different from those computed in accordance with clause (i), the utility shall separately compute and state such fuel clause revenues for each customer for each month of Period I and Period II.

(iii) The utility shall summarize separately revenue data computed in accordance with clauses (i) and (ii) above for each month and in total for Period I and Period II, in accordance with wholesale rate groups specified in Statement BA under paragraph (h)(26) of this section. The utility shall show total electric department revenues for each period to include revenues under the changed rate for all such wholesale customer rate groups.

(iv) For Period I and as estimated for Period II, the utility shall summarize all billing determinants and revenues received from interruptible or curtailable services. Billing determinants and revenue data shall be consistent with interruptible demand and energy data in Statements BB and BD. The utility shall include an explanation of the extent to which interruptible or curtailable service revenues are or are not included in revenue credits in Statement AU under paragraph (h)(21) of this section.

(33) *Statement BH—Revenue data to reflect present rates.* Statement BH is a statement of revenues for Period I and Period II, including those under
present rates for wholesale services
issue, and for total electric service
reflect such revenues for wholesa
services. The utility shall prepare t
statement to include data consiste
with criteria specified for presentati
of revenue under the changed rate
Statement BG under paragra
(h)(32) of this section.

(34) *Statement BI—Fuel cost adju*
ment factors. Statement BI is a sta
ment of monthly fuel cost adjustme
factors under the changed rate a
under the present rates, for Period
and Period II.

(i) If the changed rate schedule e
bodies a fuel cost adjustment claus
the utility shall show detailed deri
tions of fuel cost adjustment facto
computed to reflect fuel cost incurre
during each month of Period I an
Period II. Fuel cost adjustment facto
are those required for revenue dete
minations in accordance with par
graph (h)(32)(i) of Statement BG.

(ii) If additional proposed fuel clau
revenue data are reported in accor
ance with paragraph (h)(32)(ii)
Statement BG, the utility shall sho
detailed derivation of applicab
monthly fuel adjustment factors.

(iii) If the present rate include
fuel cost adjustment change, the uti
ty shall show detailed derivations
fuel cost adjustment factors for ea
month of Period I and Period II. Th
utility shall include in Statement B
derivations for all monthly factors r
quired in the computation of prese
fuel clause revenues reported in Sta
ment BH. The utility shall provide a
explanation of the differences b
tween the present and proposed fu
clauses.

(iv) All fuel cost adjustment facto
shall be cost-based. The utility sha
make a computational showing th
shall develop adjustment factors in
manner consistent with the requi
ments of § 35.14 of this chapter. Th
utility shall provide supporting deta
on cost by type of fuel, and shall sho
separately the allowable fuel clau
cost component of purchased or inte
changed energy. All fuel cost da
shall be consistent with that include
in operation and maintenance e
penses in Statement AH under pa
graph (h)(8) of this section.

(35) *Statement BJ—Summary data tables.* Statement BJ is a tabular summary of portions of Period I and Period II data from specific cost of service statements in this paragraph. The utility shall summarize under descriptive titles the Period I and Period II data from the cost of service provisions listed in this subparagraph. The utility shall supply the data in the manner described for each cost of service statement and in this subparagraph.

(i) If a utility provides in Statement BK information that is substantially equivalent to the information required in this statement, the utility may fulfill the requirements of this statement by specifically referring to the location in Statement BK of the information required in this subparagraph.

(ii) The utility shall provide the information in the following statements as average total electric department monthly balances for each function and subfunction of plant:

(A) Statement AD—(h)(4)(i) and (ii);

(B) Statement AE—(h)(5)(i) and (ii);

(C) Statement AF—(h)(6)(i) through (v);

(D) Statement AG—(h)(7)(i) through (vi);

(E) Statement AL—(h)(12)(i) and (ii);

(F) Statement AM—(h)(13); and

(G) Statement AN—(h)(14).

(iii) The utility shall provide the information in the following statements as total electric department annual revenue and expense amounts:

(A) Statement AH—(h)(8)(i), (iv) and (v);

(B) Statement AI—(h)(9)(i) and (ii);

(C) Statement AJ—(h)(10)(i);

(D) Statement AK—(h)(11)(i);

(E) Statement AP—(h)(16)(i) through (iv);

(F) Statement AQ—(h)(17)(i) through (iii);

(G) Statement AR—(h)(18)(i) through (iv);

(H) Statement AS—(h)(19);

(I) Statement AT—(h)(20); and

(J) Statement AU—(h)(21).

(iv) The utility shall provide all cost of capital amounts in the following statements.

(A) Statement AV—(h)(22)(i)(A); and

(B) Statement AW—(h)(23);

(v) The utility shall provide all tax rate data in Statement AY, paragraph (h)(25)(i) of this section.

(vi) The utility shall provide the information in the following statements as appropriate, for total electric department values and individual customer group values:

(A) Statement BB—(h)(27)(i) through (vi);

(B) Statement BD—(h)(29)(i) through (iv);

(C) Statement BE—(h)(30)(iv) (A), (B), and (C);

(D) Statement BG—(h)(32)(iii); and

(E) Statement BH—(h)(33).

(36) *Statement BK—Electric utility department cost of service, total and as allocated.* Statement BK is a statement of the claimed fully allocated cost of service of the utility developed and shown for Period I and Period II. The utility shall include analytical support for each rate proposed to be differentiated on a time-of-use basis. The utility shall also provide any marginal or incremental cost information that is required to support the changed rate developed on a marginal or incremental cost basis. The utility shall show allocations of fully distributed costs to the wholesale services subject to the changed rate accompanied by a comparison of allocated costs with revenues under the changed rate. Nothing in this subparagraph shall preclude use by any utility of any cost of service technique it believes reasonable and that is consistent with the requirements of paragraph (g) of this section.

(i) The utility shall base the fully distributed cost of service and the allocations thereof upon data provided in the accompanying detailed statements required under this section and additional data which the utility may submit and support in connection with this statement. The cost of service data of the utility shall conform to the following requirements:

(A) The total electric rate base and cost of service shall be itemized and summarized by major functions and in a format designed to facilitate review and analysis.

(B) Based on the total electric rate base and cost of service, and on allocated or assigned component elements, the cost of service for each Statement BA wholesale customer rate group under paragraph (h)(26) shall be itemized and summarized by major functions in a format consistent with that shown for total electric.

(C) The costs of service data for total electric and for each of the wholesale customer groups shall include data that show the return and the income taxes by components and in total, based upon the rate of return claimed by the utility in Statement AV under paragraph (h)(22). Individual components of income taxes shall include income taxes payable, provision for deferred income tax—debits and deferred income tax—credits, investment tax credits, or other adjustments.

(D) The fully distributed cost of service study of the utility shall disclose the principal determinants for allocation of total electric costs among the wholesale customer groups, including but not limited to the following:

(*1*) Computations showing the energy responsibilities of the wholesale services, with supporting detail;

(*2*) Computations showing the demand responsibilities of the wholesale services, with supporting detail; and

(*3*) Computations showing the specific assignment responsibilities of the wholesale services, with supporting detail.

(ii) For the total electric service and for each wholesale customer rate group, the utility shall compare the fully distributed cost of service with the revenues under the changed rate. Based on the comparison, the utility shall show the revenue excess or deficiency and the earned rate of return computed for the total electric service and for each wholesale customer rate group.

(iii) For any filing that contains Period II data, the utility shall supply any work papers and additional explanatory material necessary to support Statement BK, indexed, referenced and paginated as provided in paragraph (d)(5) of this section.

(iv) The utility shall provide a tabular comparison of Period II total electric fully distributed cost items with those of Period I. The comparis shall show item amounts for each the two periods, and also shall sho Period II item amounts as percentag of equivalent items for Period I. Co parisons shall include at least the fo lowing items, accompanied by expla tory notes with respect to significa variations among the comparative pe centages:

(A) Rate base;

(B) Production expenses;

(C) Transmission expenses;

(D) Customer accounting, custome service and information, and sales e penses;

(E) Depreciation expenses;

(F) Taxes except income and re nue;

(G) Income taxes;

(H) Revenue taxes; and

(I) Return claimed.

(37) *Statement BL—Rate design i formation.* In support of the design the changed rate, the utility sha submit the following material:

(i) A narrative statement describ and justifying the objectives of design of the changed rate. If the pu pose of the rate design is to refle costs, the utility shall state how th objective is achieved, and shall acco pany it with a summary cost analys that would justify the rate design, i cluding any discounts or surcharg based on delivery voltage level other specific considerations. S summary cost analysis shall be cons ent with, derived from, and cross-re erenced to the data in cost of servi Statement BK. If the rate design not intended to reflect costs, wheth fully distributed, marginal, increme tal, or other, the utility shall provid statement to justify the departu from cost-based rates.

(ii) If the billing determinants, su as quantities of demand, energy, or livery points, are on different bas than the cost allocation determina supporting such charges, the uti shall submit an explanation setti forth the economic or other consid ations that warrant such departu The information shall include at lea the following:

(A) If the individual rate for th demand, energy and customer charg do not correspond to the compara

t classifications supporting such
arges, a detailed explanation stating
e reasons for the differences.

B) If the changed rate contains
re than one demand or energy
ck, a detailed explanation indicat-
the rationale for the blocking and
e considerations upon which such
cking is based, including adequate
t support for the specified blocking.

38) *Statement BM—Construction
gram statement.* Statement BM is a
mmary of data and supporting as-
mptions relating to the economics of
y construction program to replace
expand the utility's power supply
at shall be filed if the utility is filing
construction work in progress in
e base under § 35.26(c)(3) of this
apter. The filing utility shall de-
ibe generally its program for pro-
ling reliable and economic power for
e period beginning with the date of
e filing and ending with the tenth
ar after the test period. The state-
ent shall include an assessment of
e relative costs of adopting alterna-
e strategies including an analysis of
ernative production plant, *e.g.*, co-
neration, small power production,
ightened load management and con-
rvation efforts, additions to trans-
ssion plant or increased purchases
power, and an explanation of why
e program adopted is prudent and
nsistent with a least-cost energy
pply program.

ederal Power Act, 16 U.S.C. 791-828c;
pt. of Energy Organization Act, 42 U.S.C.
01-7352; E.O. 12009, 42 FR 46267, 3 CFR
2 (1978); Pub. L. 96-511, 94 Stat. 2812 (44
S.C. 3501 *et seq.*))

rder 91, 45 FR 46363, July 10, 1980, as
ended at 47 FR 6826, Feb. 17, 1982; Order
5, 47 FR 19056, May 3, 1982; Order 298, 48
2 24354, June 1, 1983; 51 FR 7782, Mar. 6,
86; Order 475, 52 FR 24993, July 2, 1987]

bpart C—Other Filing Requirements

35.14 Fuel cost and purchased economic power adjustment clauses.

(a) Fuel adjustment clauses which
e not in conformity with the princi-
es set out below are not in the public
terest. These regulations contem-
ate that the filing of proposed rate
hedules which embody fuel clauses
iling to conform to the following principles may result in suspension of those parts of such rate schedules:

(1) The fuel clause shall be of the form that provides for periodic adjustments per kWh of sales equal to the difference between the fuel and purchased economic power costs per kWh of sales in the base period and in the current period:

Adjustment Factor = *Fm/Sm-Fb/Sb*

Where: *F* is the expense of fossil and nuclear fuel and purchased economic power in the base (*b*) and current (*m*) periods; and S is the kWh sales in the base and current periods, all as defined below.

(2) Fuel and purchased economic power costs (*F*) shall be the cost of:

(i) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants.

(ii) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (a)(2)(iii) of this section.

(iii) The total cost of the purchase of economic power, as defined in paragraph (a)(11) of this section, if the reserve capacity of the buyer is adequate independent of all other purchases where non-fuel charges are included in either F_b or F_m;

(iv) Energy charges for any purchase if the total amount of energy charges incurred for the purchase is less than the buyer's total avoided variable cost;

(v) *And less* the cost of fossil and nuclear fuel recovered through all inter-system sales.

(3) Sales (S) shall be all kWh's sold, excluding inter-system sales. Where for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to the sum of (i) generation, (ii) purchases, (iii) interchange-in, less (iv) energy associated with pumped storage operations, less (v) inter-system sales referred to in paragraph (a)(2)(iv) above, less (vi) total system losses.

(4) The adjustment factor developed according to this procedure shall be modified to properly allow for losses (estimated if necessary) associated only with wholesale sales for resale.

(5) The adjustment factor developed according to this procedure may be further modified to allow the recovery of gross receipts and other similar revenue based tax charges occasioned by the fuel adjustment revenues.

(6) The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account. (Paragraph C of Account 518 includes the cost of other fuels used for ancillary steam facilities.)

(7) Where the cost of fuel includes fuel from company-owned or controlled[1] sources, that fact shall be noted and described as part of any filing. Where the utility purchases fuel from a company-owned or controlled source, the price of which is subject to the jurisdiction of a regulatory body, such cost shall be deemed to be reasonable and includable in the adjustment clause. If the current price, however, is in litigation and is being collected subject to refund, the utility shall so advise the Commission and shall keep a separate account of such amounts paid which are subject to refund, and shall advise the Commission of the final disposition of such matter by the regulatory body having jurisdiction. With respect to the price of fuel purchases from company-owned or controlled sources pursuant to contracts which are not subject to regulatory authority, the utility company shall file such contracts and amendments thereto with the Commission for its acceptance at the time it files its fuel clause or modification thereof. Any subsequent amendment to such contracts shall likewise be filed with the Commission as a rate schedule change and may be subject to suspension under section 205 of the Federal Power Act. Fuel charges by affiliated companies which do not appear to be reasonable may result in the suspension of the fuel adjustment clause or cause an investigation thereof to be made by the Commission on its own motion under section 206 of the Federal Power Act.

(8) All rate filings which contain a proposed new fuel clause or a change in an existing fuel clause shall conform such clauses with the regulations. Within one year of the effectiveness of this rulemaking, all public utilities with rate schedules that contain a fuel clause should conform such clauses with the regulations. Recognizing that individual public utilities may have special operating characteristics that may warrant granting temporary delays in the implementation of the regulations, the Commission may, upon showing of good cause, waive the requirements of this section of the regulations for an additional one-year period so as to permit the public utilities sufficient time to adjust to the requirements.

(9) All rate filings containing a proposed new fuel clause or change in an existing fuel clause shall include:

(i) A description of the fuel clause with detailed cost support for the base cost of fuel and purchased economic power or energy.

(ii) Full cost of service data unless the utility has had the rate approved by the Commission within a year, provided that such cost of service may not be required when an existing fuel cost adjustment clause is being modified to conform to the Commission's regulations.

(10) Whenever particular circumstances prevent the use of the standards provided for herein, or the use thereof would result in an undue burden, the Commission may, upon application under § 385.207 of this chapter and for good cause shown, permit deviation from these regulations.

(11) For the purpose of paragraph (a)(2)(iii) of this section, the following definitions apply:

(i) "Economic power" is power or energy purchased over a period of twelve months or less where the total cost of the purchase is less than the buyer's total avoided variable cost.

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[1] As defined in the Commission's Uniform System of Accounts 18 CFR Part 101, Definitions 5B.

"Total cost of the purchase" is
arges incurred in buying econom-
ver and having such power deliv-
o the buyer's system. The total
ncludes, but is not limited to, ca-
or reservation charges, energy
es, adders, and any transmission
heeling charges associated with
urchase.

"Total avoided variable cost" is
entified and documented variable
that would have been incurred
e buyer had a particular pur-
not been made. Such costs in-
, but are not limited to, those as-
ed with fuel, start-up, shut-down
y purchases that would have
made in lieu of the purchase
.

) For the purpose of paragraph
(iii) of this section, the following
edures and instructions apply:

A utility proposing to include pur-
charges other than those for
or energy in fuel and purchased
omic power costs (*F*) under para-
n (a)(2)(iii) of this section shall
d its fuel cost adjustment clause
hat it is consistent with para-
hs (a)(1) and (a)(2)(iii) of this sec-
Such amendment shall state the
m reserve capacity criteria by
h the system operator decides
her a reliability purchase is re-
ed. Where the utility filing the
ement is required by a State or
regulatory body (including a
t site licensing board) to file a ca-
y criteria statement with that
, the system reserve capacity cri-
in the statement filed with the
mission shall be identical to those
ained in the statement filed with
State or local regulatory body.
utility that changes its reserve ca-
ty criteria shall, within 45 days of
change, file an amended fuel cost
purchased economic power adjust-
t clause to incorporate the new
eria.

) Reserve capacity shall be deemed
quate if, at the time a purchase
initiated, the buyer's system re-
e capacity criteria were projected
e satisfied for the duration of the
chase without the purchase at
e.

ii) The total cost of the purchase
st be projected to be less than total avoided variable cost, at the time a purchase was initiated, before any non-fuel purchase charge may be included in F_m

(iv) The purchasing utility shall make a credit to F_m after a purchase terminates if the total cost of the purchase exceeds the total avoided variable cost. The amount of the credit shall be the difference between the total cost of the purchase and the total avoided variable cost. This credit shall be made in the first adjustment period after the end of the purchase. If a utility fails to make the credit in the first adjustment period after the end of the purchase, it shall, when making the credit, also include in F_m interest on the amount of the credit. Interest shall be calculated at the rate required by § 35.19a(a)(2)(iii) of this chapter, and shall accrue from the date the credit should have been made under this paragraph until the date the credit is made.

(v) If a purchase is made of more capacity than is needed to satisfy the buyer's system reserve capacity criteria because the total costs of the extra capacity and associated energy are less than the buyer's total avoided variable costs for the duration of the purchase, the charges associated with the non-reliability portion of the purchase may be included in *F*.

(Approved by the Office of Management and Budget under control number 1902-0096)

(Federal Power Act, 16 U.S.C. 824d, 824e and 825h (1976 & Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7171, 7172 and 7173(c) (Supp. IV 1980); E.O. 12009, 3 CFR Part 142 (1978); 5 U.S.C. 553 (1976))

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 421, 36 FR 3047, Feb. 17, 1971; 39 FR 40583, Nov. 19, 1974; Order 225, 47 FR 19056, May 3, 1982; Order 352, 48 FR 55436, Dec. 13, 1983; 49 FR 5073, Feb. 10, 1984]

§ 35.15 Notices of cancellation or termination.

When a rate schedule or part thereof required to be on file with the Commission is proposed to be cancelled or is to terminate by its own terms and no new rate schedule or part thereof is to be filed in its place, each party required to file the schedule shall notify the Commission of the proposed cancellation or termination on the form indicated in § 131.53 of this chapter at least sixty days but not more than one hundred-twenty days prior to the date such cancellation or termination is proposed to take effect. A copy of such notice to the Commission shall be duly posted. With such notice each filing party shall submit a statement giving the reasons for the proposed cancellation or termination, and a list of the affected purchasers to whom the notice has been mailed. For good cause shown, the Commission may by order provide that the notice of cancellation or termination shall be effective as of a date prior to the date of filing or prior to the date the filing would become effective in accordance with these rules.

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 39, 44 FR 46454, Aug. 8, 1979]

§ 35.16 Notice of succession.

Whenever the name of a public utility is changed, or its operating control is transferred to another public utility in whole or in part, or a receiver or trustee is appointed to operate any public utility, the exact name of the public utility, receiver, or trustee which will operate the property thereafter shall be filed within 30 days thereafter with the Commission on the form indicated in § 131.51 of this chapter.

§ 35.17 Changes relating to suspended rate schedules or parts thereof.[4]

(a) *Withdrawal of suspended rate schedules or parts thereof.* Where a rate schedule or part thereof has been suspended by the Commission, it may be withdrawn during the period of suspension only by special permission of the Commission granted upon application therefor and for good cause shown. If permitted to be withdrawn, any such rate schedule may be refiled with the Commission within a one-year period thereafter only with special permission of the Commission good cause shown.

(b) *Changes in suspended rate sch ules or parts thereof.* A public util may not, within the period of susp sion, file any change in a rate sched or part thereof which has been s pended by order of the Commissi except by special permission of t Commission granted upon applicati therefor and for good cause shown.

(c) *Changes in rate schedules parts thereof continued in effect a which were proposed to be changed the suspended filing.* A public util may not, within the period of suspe sion, file any change in a rate schedu or part thereof continued in effect operation of an order of suspensio and which was proposed to be change by the suspended filing, except by sp cial permission of the Commissio granted upon application therefor a for good cause shown.

§ 35.18 Rates established by order of t Commission.

Every rate schedule filed to make e fective the rates, charges, classific tions or services, or any rule, regula tion, practice or contract relatin thereto, established in conformit with an order of the Commission sha bear the following additional notatio on the title page:

Filed in Compliance with an Order of t Federal Power Commission Docket N
—— Entered —— Day of ——

§ 35.19 Submission of information by re erence.

If all or any portion of the information called for in this part has alread been submitted to the Commissio substantially in the form prescribe above, specific reference thereto ma be made in lieu of re-submission in response to the requirements of thi part.

§ 35.19a Refund requirements under su pension orders.

(a) *Refunds.* (1) The public utilit whose proposed increased rates o charges were suspended shall refun at such time in such amounts and i such manner as required by fin order of the Commission the portio of any increased rates or charges found by the Commission in that suspension proceeding not to be justified, together with interest as required in paragraph (a)(2) of this section.

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[4] See General Policy and Interpretations, § 2.4, of this chapter.

(2) Interest shall be computed from the date of collection until the date refunds are made as follows:

(i) At a rate of seven percent simple interest per annum on all excessive rates or charges held prior to October 10, 1974;

(ii) At a rate of nine percent simple interest per annum on all excessive rates or charges held between October 10, 1974, and September 30, 1979; and

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin*, or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13), for the fourth, third, and second months preceeding the first month of the calendar quarter.

(B) The interest required to be paid under clause (iii)(A) shall be compounded quarterly.

(3) Any public utility required to make refunds pursuant to this section shall bear all costs of such refunding.

(b) *Reports.* Any public utility whose proposed increased rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 205(e) of the Federal Power Act shall:

(1) Keep accurate account of all amounts received under the increased rates or charges which became effective after the suspension period, for each billing period, specifying by whom and in whose behalf such amounts are paid;

(2) Submit annually on or before April 30 of each year to the Commission, in writing (original and one copy) and under oath the following information concerning each billing period for each purchaser for the previous calendar year:

(i) The monthly billing determinants of electricity sold and delivered to each purchaser under the suspended agreements and tariffs;

(ii) The revenues which would result from such sales if they were computed under the rates in effect immediately prior to the date the proposed increased rates or charges became effective;

(iii) The revenues resulting from such sales as computed under the proposed increased rates or charges that became effective after the suspension period; and

(iv) The difference between those revenues computed in clauses (ii) and (iii) of this subparagraph.

(3) The Director of the Office of Electric Power Regulation may require reports on a more frequent basis in individual cases when it is deemed appropriate and necessary to do so, or upon request where good cause is shown.

[44 FR 53503, Sept. 14, 1979, as amended at 45 FR 3889, Jan. 21, 1980]

§ 35.20 Filing of rate schedules, notices, etc., by persons authorized to transmit electric energy from the United States to a foreign country.

Persons authorized to transmit electric energy from the United States to a foreign country and required by the provisions of § 32.38 of this chapter, to file all rate schedules, supplements, notices of succession in ownership or operation, notices of cancellation, and certificates of concurrence with respect to such energy shall do so in the form and manner specified in §§ 35.1 through 35.16 as applicable to public utilities.

§ 35.21 Applicability to licensees and others subject to section 19 or 20 of the Federal Power Act.

Upon further order of this Commission issued upon its own motion or upon complaint or request by any person or State within the meaning of sections 19 or 20 of the Federal Power Act, the provisions of §§ 35.1 through 35.19 shall be operative as to any licensee or others who are subject to this Commission's jurisdiction in respect to services and the rates and charges of payment therefor by reason of the requirements of sections 19 or 20 of the Federal Power Act. The requirement of this section for compliance with the provisions of §§ 35.1 through 35.19 shall be in addition to and independent of any obligation for compliance with those regulations by reason of the provisions of sections 205 and 206 of the Federal Power Act. For purposes of applying this section "Electric Service" as otherwise defined in § 35.2(a) shall mean: Services to customers or consumers of power within the meaning of sections 19 or 20 of the Federal Power Act which may be comprised of various classes of capacity and energy and/or transmission services subject to the jurisdiction of this Commission. "Electric Service" shall include the utilization of facilities owned or operated by any licensee or others to effect any of the foregoing sales or services whether by leasing or other arrangements. As defined herein "Electric Service" is without regard to the form of payment or compensation for the sales or services rendered, whether by purchase and sale, interchange, exchange, wheeling charge, facilities charge, rental or otherwise. For purposes of applying this section, "Rate Schedule" as otherwise defined in § 35.2(b) shall mean: A statement of

(1) Electric service as defined in this § 35.21,

(2) Rates and charges for or in connection with that service, and

(3) All classifications, practices, rules, regulations, or contracts which in any manner affect or relate to the aforementioned service, rates and charges. This statement shall be in writing and may take the physical form of a contractual document, purchase or sale agreement, lease of facilities, tariff[5] or other writing. Any oral agreement or understanding forming a part of such statement shall be reduced to writing and made a part thereof.

§ 35.22 Research and development clauses.

(a) Advance Commission approval may be requested of rate treatment for RD&D expenditures of $50,000 or more related to a project undertaken
by the company or as part of a pro
undertaken by others, or for a gr
of projects which, in the aggreg
cost $50,000 or more. This appro
may be requested regardless of whe
er the RD&D is undertaken by
utility or by another party or orga
zation. Approval requests shall
scribe the project in such detail as
satisfy the Commission that
project expenditure involved quali
as being valid, justifiable, and reaso
ble. In addition, the request shall s
cifically include the estimated cost
the project and a description of t
utility's expenditure percentage in
total project program. When a util
participates in a joint project, the co
tractual agreements should prov
the utility complete access to cost re
ords and results related to the proje
Records shall be kept so that unsche
uled progress reports may be called
as determined by the Commission. A
proval requests shall justify any co
duct of or partial support of larg
scale demonstration facilities by clea
ly identifying and justifying the po
tions of the capital and operating cos
which require the high-risk financ
support necessary to the pursuit
RD&D. The justification of suppo
for a large-scale demonstration facili
shall include a statement as to th
planned accounting treatment of rev
nue which may be derived from the fa
cility's product and of proceeds whic
may be derived from the sale of the fa
cility.

(b) Where more than one jurisdi
tional company proposes to support
RD&D organization as defined belo
an approval request may be submitte
to the Commission by the RD&D or
ganization covering the organization
RD&D program as defined below. Ap
proval by the Commission of suc
RD&D program shall constitute ap
proval of individual companies' contr
butions to the RD&D organizatio
Organizations eligible to receive con
tributions from companies and to re
quest program approval from th
Commission under this section may be
RD&D organizations broadly suppor
ed by a number of energy industry se
tors (e.g., natural gas, electric powe
petroleum, coal, nuclear energy
RD&D organizations broadly suppor

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[5] See footnote 1 to § 35.2.

ed by a single industry sector; regional organizations that work primarily on problems of a regional nature; or consortia of companies that jointly support RD&D programs for the collective benefit of their ratepayers.

(c) RD&D organizations or individual jurisdictional companies requesting and receiving advance RD&D program approval shall annually submit a five-year program plan at least 180 days prior to the commencement of the five-year period of the plan. The plan shall clearly state the objectives within and beyond the five-year period and clearly relate the objectives to the interests of the ratepayers, the public, and the industry and to the objectives of other major research organizations, particularly the U.S. Energy Research and Development Administration. The plan shall contain sufficient budget, technical, and schedule details to afford an understanding of the work to be performed, to allow an assessment of the probability of success, and to permit comparison with other organizations' research plans. The commencement date and expected termination date for individual research development and demonstration projects to be initiated during the first year of the plan will be given along with expected annual costs. The plan shall discuss the RD&D efforts and progress since the preparation of the program plan submitted the previous year and shall explain any changes that have been made in objectives, priorities, and budgets since the plan of the previous year. The plan shall identify all jurisdictional companies that will support the program and their budgeted support. The plan shall identify those persons involved in the development, review, and approval of the plan and shall state the amount of effort contributed and the degree of control exercised by each. The principal tests for the adequacy of the proposed plan shall be the following guidelines:

(1) Evidence that the RD&D objectives of the company or research organizations have been clearly established.

(2) Evidence that the plan evolves from these RD&D objectives and adequately utilizes the viewpoints of scientific engineering, industry, economic, consumers and environmental interests.

(3) Evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope.

(4) Evidence that the project or program is well conceived and, if successful, has a reasonable chance of benefitting the ratepayer in a reasonable period of time, having due regard to the basic, exploratory or applied nature of each submitted RD&D project.

(5) Evidence that whatever achievements may result, including knowledge gained or technology developed from the RD&D effort, if any, will accrue to the benefit of the sponsoring jurisdictional company(s) and its/their customers.

(d) Within 120 days of filing of the five-year RD&D plan as defined above, the Commission will state its decision with respect to acceptance, partial acceptance, or rejection of the plan, or, when the complexity of issues in the plan so requires, will set a date certain by which a final decision will be made, or will order the matter set for hearing. Partial rejection of a plan by the Commission will be accompanied by a decision as to the partial level of acceptance which will be proportionally applied to all contributions listed for jurisdictional companies in the plan. Approval by the Commission of a five-year plan constitutes approval for rate treatment of all projects identified as starting during the first year of the approved plan. Continued rate treatment will be dependent upon review and evaluation of subsequent annual reports.

(e) An electric utility may submit a research, development and demonstration cost adjustment provision to flow through changes in its expenditures for research, development and demonstration.[3] Changes permitted hereunder include both expenditures chargeable to operations as well as rate base treatment of the balances in Account 188 as hereinafter defined. Except in the case of expenditures approved pursuant to § 35.22(b), no RD&D adjustment provision shall become effective until authorized by the Commission. No request for an RD&D adjustment provision will be considered by the Commission unless the proposed clause indicates the following terms and conditions:

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[3] For purposes of this subsection, RD&D expenditures represent those costs includable in Account 188, Research, Development and Demonstration expenditures.

(1) The RD&D expenditure adjustment shall be reflected in the company's rates only when it amounts to at least $0.00001 per kWh of annual sales. Rate changes shall be applied to the energy component of the existing rates.

(2) Rate changes shall be computed and filed semiannually.

(3) RD&D expenditures chargeable to operations which may be tracked and reflected in rates shall be the amount which actual RD&D expenditures during the 12-month period ending 3 months prior to a proposed rate adjustment exceed or are less than (i) the amount allowed in the company's last rate proceeding, or the average of 3 years RD&D expenditures if such rate adjustment is an initial filing under this subsection; or (ii) the actual RD&D expenditures in the company's last prior rate adjustment under this subsection.

(4) RD&D expenditures chargeable to account 188 which are eligible to receive rate base treatment and which may be tracked and reflected in rates shall be the amount which the actual balances in such account during the 12-month period ending 3 months prior to the proposed rate adjustment exceed or are less than the balances in such account as of the date of this regulation if an initial filing under this paragraph, or the balances in account 188 included in the company's last prior rate adjustment under this subparagraph. For purposes of determining the balance which may be tracked, the company shall reduce the balance in account 188 by all money received related to its RD&D expenditures and shall increase or reduce such account balance, as appropriate, by the applicable accumulated deferred income taxes. The rate of return used by company to determine the rate of the rate base treatment of the ance in account 188 shall be the of return last allowed by the Comm sion for this class of service during previous 3-year period. If there been no such rate of return allow then, in absence of evidence submi to the contrary, the return utili shall be the present interest rate for computing refunds as specified § 35.19a of the Commission's reg tions under the Federal Power Act.

(5) Any rate schedule filing made the company to increase its rates to customers shall meet the notice quirements of § 35.3 of the regulat which provide, in pertinent part, the filing be filed with the Comm sion and posted (as defined in § 35. of the regulations) at least 60 d prior to the date on which change(s) in its existing rates become effective. Simultaneously the above filing, the company sh furnish the Commission, jurisdiction customers, and interested State co missions a report containing detai computations which clearly show derivation of the proposed rate adju ment. The effect upon jurisdiction rates shall be determined by comp ing the unit change (either increase decrease) based upon sales for the month period ending 3 months pr to the proposed rate adjustment. RD&D expenditures for which company has been allowed to track other regulatory bodies shall be cle ly designated and treated in such manner so as to avoid double recover Each rate adjustment shall become fective on the proposed effective da without suspension provided that rate increase shall be subject to redu tion and refund of any portion foun after hearing to be unjustified b final and nonappealable Commissi order. The filing fee requirements § 36.2 of the regulations are here waived and shall not apply to any ings made under this section (§ 35.2

(6) In addition to the above-require report containing the derivation of th proposed rate, the following additio data shall be submitted as part of th application:

A statement as to the anticipated scope and objective of the RD&D and the relationship of such objective to the jurisdictional service for which the tracking is to apply. If the tracking is not to apply to certain jurisdictional service but is to apply to others, a statement as to the reasons for such determination.

(7) No company shall be required to reduce its rates under this subparagraph by an increment exceeding the aggregate increases allowed thereunder.

(Secs. 19, 20 (41 Stat. 1073); secs. 205, 206, 208, 209, 301-304, 309 (49 Stat. 851-856, 858, 859); 16 U.S.C. 812, 813, 824d, 824e, 824g, 824h, 825, 825a, 825b, 825c, 825h; secs. 4, 5, 8, 9, 10, 16 and 17 (52 Stat. 822, 823, 825, 826, 830; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717g, 717h, 717i, 717o, 717p))

[Order 483, 38 FR 12114, May 9, 1973, as amended by Order 566, 42 FR 30155, June 13, 1977; Order 569, 42 FR 39661, Aug. 5, 1977; 44 FR 26068, May 4, 1979; Order 39, 44 FR 46454, Aug. 8, 1979]

§ 35.23 Limits for percentage adders in rates for transmission services; revision of rate schedules.

(a) *Applicability.* This section applies to all electric rate schedules required to be filed under this part that are used for transactions in which the utility or system performs a transmission or purchase and resale function.

(b) *Definition.* For purposes of this section, "purchased power price" means the amount paid by a utility or system that performs a transmission or purchase and resale function for electric power generated by another utility or system.

(c) *General rule.* (1) If a utility or system uses a rate component that recovers revenues computed wholly or in part as a percentage of the purchased power price, the utility or system shall establish a limit on the revenues recovered by such rate component in any transaction, in accordance with paragraph (d) of this section.

(2) The limit established under this paragraph shall be stated in mills per kilowatt-hour.

(d) *Cost support information.* (1) A utility or system shall submit cost support information to justify any revenue limit established under paragraph (c) of this section, except as provided in paragraph (e) of this section.

(2) The information submitted under this section shall consist of those costs, other than the purchased power price, incurred by a utility or system as a result of a transmission or purchase and resale transaction, which costs are not recovered under any other rate component.

(e) *Exception.* A utility or system need not submit the cost support information required under paragraph (d) of this section if the limit established under paragraph (c) of this section is not more than one mill per kilowatt-hour.

(f) *Revision of rate schedules.* Every utility or system shall:

(1) Amend any rate schedule or tariff to indicate any limit established pursuant to this section, not later than 60 days after the effective date of this rule; and

(2) Hereafter conform any rate or rate change filed under this part to the requirements of this section.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142 (1978))

[Order 84, 45 FR 31300, May 13, 1980]

§ 35.24 [Reserved]

§ 35.25 Tax normalization for public utilities.

(a) *Applicability.* (1) Except as provided in subparagraph (2) of this paragraph, this section applies, with respect to rate schedules filed under §§ 35.12 and 35.13 of this Part, to the ratemaking treatment of the tax effects of all transactions for which there are timing differences.

(2) This section does not apply to the following timing differences:

(i) Differences that result from the use of accelerated depreciation;

(ii) Differences that result from the use of Class Life Asset Depreciation Range (ADR) provisions of the Internal Revenue Code;

(iii) Differences that result from the use of accelerated amortization provisions on certified defense and pollution control facilities;

(iv) Differences that arise from recognition of extraordinary property losses as a current expense for tax purposes but as a deferred and amortized expense for book purposes;

(v) Differences that arise from recognition of research, development, and demonstration expenditures as a current expense for tax purposes but as a deferred and amortized expense for book purposes;

(vi) Differences that result from different tax and book reporting of deferred gains or losses from disposition of utility plant;

(vii) Differences that result from the use of the Asset Guideline Class "Repair Allowance" provision of the Internal Revenue Code;

(viii) Differences that result from recognition of purchased gas costs as a current expense for tax purposes but as a deferred expense for book purposes.

(*See* Order 13, issued October 18, 1978; Order 203, issued May 29, 1958; Order 204, issued May 29, 1958; Order 404, issued May 15, 1970; Order 408, issued August 26, 1970; Order 432, issued April 23, 1971; Order 504, issued February 11, 1974; Order 505, issued February 11, 1974; Order 566, issued June 3, 1977; Opinion 578, issued June 3, 1970; and Opinion 801, issued May 31, 1977.)

(b) *General rules*—(1) *Tax normalization required.* (i) A public utility must compute the income tax component of its cost of service by using tax normalization for all transactions to which this section applies.

(ii) Except as provided in paragraph (c) of this section, application of tax normalization by a public utility under this section to compute the income tax component will not be subject to case-by-case adjudication.

(2) *Reduction of, and addition to, rate base.* (i) The rate base of a public utility using tax normalization under this section must be reduced by the balances that are properly recordable in Account 281, "Accumulated deferred income taxes-accelerated amortization property;" Account 282, "Accumulated deferred income taxes—other property;" and Account 283, "Accumulated deferred income taxes—other." Balances that are properly recordable in Account 190, "Accumulated deferred income taxes," must be treated as an addition to rate base.

(ii) Such rate base reductions or additions must be limited to deferred taxes related to rate base, construction or other jurisdictional activities.

(iii) If a public utility uses an approved purchased gas adjustment clause or a research, development and demonstration tracking clause, the rate base reductions or additions required under this subparagraph must apply only to the extent that the balances in Account 190 and Accounts 281 through 283 are not used, for purposes of calculating carrying charges, as an offset to balances properly recordable in Account 188, "Research development and demonstration expenditures," or Account 191, "Unrecovered purchased gas costs."

(c) *Special rules.* (1) This paragraph applies:

(i) If the public utility has not provided deferred taxes in the same amount that would have accrued had tax normalization been applied for the tax effects of timing difference transactions originating at any time prior to the test period; or

(ii) If, as a result of changes in tax rates, the accumulated provision for deferred taxes becomes deficient in or in excess of amounts necessary to meet future tax liabilities as determined by application of the current tax rate to all timing difference transactions originating in the test period and prior to the test period.

(2) The public utility must compute the income tax component in its cost of service by making provision for any excess or deficiency in deferred taxes described in subparagraphs (1)(i) or (1)(ii) of this paragraph.

(3) The public utility must apply a Commission-approved ratemaking method made specifically applicable to the public utility for determining the cost of service provision described in subparagraph (2) of this paragraph. If no Commission-approved ratemaking method has been made specifically applicable to the public utility, then the public utility must use some ratemaking method for making such provision, and the appropriateness of this method will be subject to case-by-case determination.

(d) *Definitions.* For purposes of this section, the term:

(1) "Tax normalization" means computing the income tax component as if

the amounts of timing difference transactions recognized in each period for ratemaking purposes were also recognized in the same amount in each such period for income tax purposes.

(2) "Timing differences" means differences between amounts of expenses or revenues recognized for income tax purposes and amounts of expenses or revenues recognized for ratemaking purposes, which differences arise in one time period and reverse in one or more other time periods so that the total amounts of expenses or revenues recognized for income tax purposes and for ratemaking purposes are equal.

(3) "Commission-approved ratemaking method" means a ratemaking method approved by the Commission in a final decision including approval of a settlement agreement containing a ratemaking method only if such settlement agreement applies that method beyond the effective term of the settlement agreement.

(4) "Income tax purposes" means for the purpose of computing income tax under the provisions of the Internal Revenue Code or the income tax provisions of the laws of a State or political subdivision of a State (including franchise taxes).

(5) "Income tax component" means that part of the cost of service that covers income tax expenses allowable by the Commission.

(6) "Ratemaking purposes" means for the purpose of fixing, modifying, approving, disapproving or rejecting rates under the Federal Power Act or the Natural Gas Act.

(7) "Tax effect" means the tax reduction or addition associated with a specific expense or revenue transaction.

(8) "Transaction" means an activity or event that gives rise to an accounting entry that is used in determining revenues or expenses.

[46 FR 26636, May 14, 1981. Redesignated and amended by Order 144-A, 47 FR 8342, Feb. 26, 1982]

§ 35.26 Construction work in progress.

(a) *Applicability*. This section applies to any rate schedule filed under this part by any public utility as defined in subsection 201(e) of the Federal Power Act.

(b) *Definitions*. For purposes of this section:

(1) "Constuction work in progress" or "CWIP" means any expenditure for public utility plant in process of construction that is properly included in Accounts 107 (construction work in progress) and 120.1 (nuclear fuel in process of refinement, conversion, enrichment, and fabrication) of Part 101 of this chapter, the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act (Major and Nonmajor), that would otherwise be eligible for allowance for funds used during construction (AFUDC) treatment.

(2) "Double whammy" means a situation which may arise when a wholesale electric rate customer embarks upon its own or participates in a construction program to supply itself with all or a portion of its future power needs, thereby reducing its future dependence on the CWIP of the rate applicant, but is simultaneously forced to pay to the CWIP public utility rate applicant the CWIP portion of the wholesale rates that reflects existing levels of service or a different anticipated service level.

(3) "Fuel conversion facility" means any addition to public utility plant that enables a natural gas-burning plant to convert to the use of other fuels, or that enables an oil-burning plant to convert to the use of other fuels, other than natural gas. Such facilities include those that alter internal plant workings, such as oil or coal burners, soot blowers, bottom ash removal systems and concomitant air pollution control facilities, and any facility needed for receiving and storing the fuel to which the plant is being converted, which facility would not be necessary if the plant continued to burn gas or oil.

(4) "Pollution control facility" means an identifiable structure or portions of a structure that is designed to reduce the amount of pollution produced by the power plant, but does not include any facility that reduces pollution by substituting a different method of generation or that gener-

best copy available

ates the additional power necessitated by the operation of a pollution control facility.

(c) *General rule.* For purposes of any initial rate schedule or any rate schedule change filed under § 35.12 or § 35.13 of this part, a public utility may include in its rate base any costs of construction work in progress (CWIP), including allowance for funds used during construction (AFUDC), as provided in this section.

(1) *Pollution control facilities.*—(i) *General rule.* Any CWIP for pollution control facilities allocable to electric power sales for resale may be included in the rate base of the public utility.

(ii) *Qualification as a pollution control facility.* In determining whether a facility is a pollution control facility for purposes of this section, the Commission will consider:

(A) Whether such facility is the type facility described in the Internal Revenue Service laws, 26 U.S.C. 169(d)(1), as follows:

> "A new identifiable treatment facility which is used * * * to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes or heat";

(B) Whether such facility has been certified by a local, state, or federal agency as being in conformity with, or required by, a program of pollution control;

(C) Whether such facility is the type facility described in the schedule of "Environmental Protection Facilities," sections 4(A) through 4(D), page 428, FERC Form No. 1, Annual Report of Electric Utilities, Licensees and Others (Major and Nonmajor) (Revised 12-85); and

(D) Other evidence showing that such facilities are for pollution control.

(2) *Fuel conversion facilities.* Any CWIP for fuel conversion facilities allocable to electric power sales for resale may be included in the rate base of the public utility.

(3) *Non-pollution control of fuel conversion (non-PC/FC) CWIP.* No more than 50 percent of any CWIP allocable to electric power sales for resale not otherwise included in rate base under paragraphs (c) (1) and (2) of this section, may be included in the rate base of the public utility.

(4) *Forward looking allocation ratios.* Every test period CWIP project requested for wholesale rate base treatment pursuant to § 35.26(c)(1), (2), and (3) of this part will be allocated to the customer classes on the basis of forward looking allocation ratios reflecting the anticipated average annual use the wholesale customers will make of the system over the estimated service life of the project. Supporting documentation, as required by §§ 35.12 and 35.13 of this part, must be in sufficient detail to permit examination and verification of the forward looking allocation ratio's recognition of each wholesale customer's plans, if any, for future alternative or supplementary power supplies. For the purpose of preventing anticompetitive effects, including CWIP-induced price squeeze and double whammy, sufficient recognition of such plans may require the public utility applicant to provide for separate customer groups or provide for a rate design incorporating selected CWIP project credits.

(d) *Effective date.* If a public utility proposes in its filed rates to include CWIP in rate base under this section, that portion of the rate related to CWIP is collectable at the time the general rates become effective pursuant to Commission order, whether or not subject to refund, except as provided in paragraph (g) of this section.

(e) *Discontinuance of AFUDC.* On the date that any proposed rate that includes CWIP in rate base becomes effective, a public utility that has included CWIP in rate base must discontinue the capitalization of any AFUDC related to those amounts of CWIP is rate base.

(f) *Accounting procedures.* When a public utility files to include CWIP in its rate base pursuant to this section, it must propose accounting procedures in that rate schedule filing that:

(1) Ensure that wholesale customers will not be charged for both capitalized AFUDC and corresponding amounts of CWIP proposed to be included in rate base; and

(2) Ensure that wholesale customers will not be charged for any corresponding AFUDC capitalized as a

result of different accounting or ratemaking treatments accorded CWIP by state or local regulatory authorities.

(g) *Anticompetitive procedures.*—(1) *Filing requirements.* In order to facilitate Commission review of the anticompetitive effects of applications for CWIP pursuant to § 35.26(c)(3), a public utility applying for rates based upon inclusion of such CWIP in rate base must include the following information in its filing:

(i) The percentage of the proposed increase in the jurisdictional rate level attributable to non-pollution control/fuel conversion CWIP and the percentage of non-pollution control/fuel conversion CWIP supporting the proposed rate level;

(ii) The percentage of non-pollution control/fuel conversion CWIP permitted by the state or local commission supporting the current retail rates of the public utility against which the relevant wholesale customers compete; and

(iii) Individual earned rate of return analyses of each of the competing retail rates developed on a basis fully consistent with the wholesale cost of service for the same test period if the requested percentage of wholesale non-pollution control/fuel conversion CWIP exceeds that permitted by the relevant state or local authority to support the currently competing retail rates.

(2) *Preliminary relief.* If an intervenor in its initial pleading alleges that a prices squeeze will occur as a direct result of the public utility's request for CWIP pursuant to § 35.26(c)(3) of this part and makes a concrete, substantial showing that it is likely to incur imminent, irreparable harm if such CWIP is allowed, the Commission will consider preliminary relief at the suspension stage of the case pursuant to paragraph (g)(4) of this section. Whether or not preliminary relief is granted at the suspension stage will not preclude consideration of further remedies later in the proceedings, if warranted.

(3) If the Commission makes a final determinaion that a price squeeze due solely to allowance of a lower percentage of non-pollution control/fuel conversion CWIP in the public utility's retail rate base than allowed by this Commission, the Commission will consider an adjustment to non-pollution control/fuel conversion CWIP in order to eliminate or mitigate the price squeeze.

(4) If an intervenor meets the requirements of paragraph (g)(2) of this section, the Commission, depending on the type of showing made including the likelihood, immediacy, and severity of any anticompetitive harm, may:

(i) Suspend the entire rate increase or all or a portion of the non-pollution control/fuel conversion CWIP component for up to five months;

(ii) Allow all or a portion of the non-pollution control/fuel conversion CWIP only prospectively from the issuance of the Commission's final order on rehearing on the matter; or

(iii) Take such other action as is proper under the circumstances.

[Order 474, 52 FR 23965, June 26, 1987, as amended by Order 474-A, 52 FR 35702, Sept. 23, 1987]

§ 35.27 Changes of rates relating to changes in the Federal corporate income tax rate.

(a) *Purpose.* The abbreviated filing procedure and formula for this section are intended to permit a public utility to make an adjustment to its rates to reflect the decrease in the Federal corporate income tax rate pursuant to the Tax Reform Act of 1986. This abbreviated filing procedure and formula would be used by a public utility in lieu of a more comprehensive rate filing under § 35.13 of this part concerning changes in rate schedules.

(b) *Applicability.* (1) Except as provided in paragraph (b)(2), and (b)(3) of this section, a public utility may use the abbreviated filing procedure and formula in this section to adjust its rates to reflect the decrease in the Federal corporate income tax rate.

(2) If a public utility has a rate case currently pending before the Commission in which the change in the Federal corporate income tax rate can be reflected, the public utility may not use this section to adjust its rates.

(3) If a public utility has a rate accepted for filing by the Commission that provides for the automatic ad-

justment of its rates to reflect, without prior hearing, increases or decreases in the Federal corporate income tax rate, it may not use this section to adjust its rates.

(c) *Formula for rate adjustment to reflect changes in Federal corporate income tax rate.* (1) For purposes of establishing a rate reduction designed to reflect a percentage decrease in the Federal corporate income tax rate, a public utility must use the following formula:

$$K = \frac{D - D(E/F)}{I}$$

where:

D = Income taxes allowable included in rates in effect on the date that the change in Federal corporate income tax rate becomes effective.

E = Composite income tax factor using the new Federal corporate income tax rate and the effective state income tax rate from the rate application docket upon which existing rates are based. This is computed by the following formula:

$$\frac{\text{composite marginal income tax rate}}{1 - \text{composite marginal income tax rate}}$$

F = Composite income tax factor using the old Federal corporate income tax rate. This is computed by the same formula used for determining E.

I = Test period billing units from rate application docket upon which the rates that are in effect are based. Absent extraordinary circumstances a public utility must use demand billing units. This information is usually available in Statement BG of the rate application and/or settlement or compliance documents.

K = Required rate reduction per billing demand unit.

(2) A separate rate calculation using this formula is required for each type of service a public utility provides and for each individual customer group thereunder.

(d) *Abbreviated filing requirements for rate schedule changes due to reductions in the Federal corporate income tax rate.* Any public utility that files a rate schedule change providing for a rate decrease that is based on a change in the Federal corporate income tax rate must submit with its finding only the information required in paragraphs (d)(1) and (d)(2) of this section.

(1) *General information.* Any public utility filing under this section must file the following general information:

(i) A list of documents submitted with the rate schedule change;

(ii) The date on which the public utility proposes to make the rate schedule effective;

(iii) The names and addresses of persons to whom a copy of the rate schedule change has been mailed;

(iv) A brief description of the rate schedule change;

(v) A statement of the reasons for the rate schedule change;

(vi) A showing that all requisite agreement to the rate schedule change, or to the filing of the rate schedule change, including any agreement required by contract, has in fact been obtained;

(vii) Computations showing the application of each step of the formula methodology;

(viii) Supporting workpapers including all intermediate calculations necessary under the formula with narrative explanation where appropriate, and details on the derivation of all formula inputs together with copies of all statements and workpapers used as source documents;

(ix) Detailed explanations of all adjustments to data shown on supporting statements (*e.g.,* adjustments to exclude South Georgia provisions from Federal income taxes allowable);

(x) Form of notice stating that the rates are to be effective July 1, 1987;

(xi) Revised rate sheets reflecting the proposed rate reduction for every rate schedule to which the reduction is proposed;

(xii) A list of any customers or services for which no reduction is proposed and the reasons for not reducing these rates; and

(xiii) A form of notice suitable for publication in the FEDERAL REGISTER in accordance with § 35.8 of this part.

(2) *Information relating to the effect of the rate schedule change.* Any public utility filing under paragraph (d)(1) of

this section must also file the following information or materials:

(i) A table or statement comparing sales and services and revenues from sales and services under the rate schedule to be superseded or supplemented and under the rate schedule change, by applying the components of each such rate schedule to the billing determinants for each class of service, for each customer, and for each delivery point or set of delivery points that constitute a billing unit:

(A) For each of the twelve most recent available months prior to the effective date of the rate schedule change; and

(B)(*1*) If in the immediately preceding rate change filing the public utility filed Statements BG and BH under paragraph (h) of § 35.13 of this part for Period I, for each of the twelve months of Period I; and

(*2*) If in the immediately preceding rate change filing Period II is the test period, for each of the twelve months of Period II.

(ii) A comparison of the rate schedule change and the public utility's other rates for similar wholesale services.

(e) *Hearing issues.* (1) The only issues that may be raised by Commission staff or any intervenor under the procedures established in this section are:

(i) Whether or not the public utility may file under this section,

(ii) Whether or not the formula in § 35.27 has been properly applied, and

(iii) Whether or not the correct information was used in that formula.

(2) Any other issue raised will be severed from the proceeding and dismissed without prejudice.

(f) *Effective date.* Rates proposed under the filing are to have a July 1, 1987 effective date. A public utility that chooses to use the abbreviated filing procedure and formula contained in this section must make its filing according to the following schedule:

SCHEDULE FOR FILINGS

First letter of utility name	Filing period
A-B	No later than September 15, 1987.
C-E	No later than September 30, 1987.
F-L	No later than October 15, 1987.
M-N	No later than October 31, 1987.
O-S	No later than November 15, 1987.
T-Z	No later than November 30, 1987.

(g) *Refunds.* A utility filing under this procedure must refund to its customers the difference between the rates unadjusted for the tax change and the new rate that reflects the tax adjustment. These refunds will be made without interest.

(h) *Waiver of filing fees.* Any filing under this section may be filed without the filing fee required by § 35.0 of this part.

[Order 475, 52 FR 24993, July 2, 1987]

Subpart D—Procedures and Requirements for Public Utility Sales of Power to Bonneville Power Administration Under Northwest Power Act

AUTHORITY: Federal Power Act, 16 U.S.C. 792–828c (1976 and Supp. IV 1980) and Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839h (Supp. IV (1980)).

SOURCE: Order 337, 48 FR 46976, Oct. 17, 1983, unless otherwise noted.

§ 35.30 General provisions.

(a) *Applicability.* This subpart applies to any sales of electric power subject to the Commission's jurisdiction under Part II of the Federal Power Act from public utilities to the Administrator of the Bonneville Power Administration (BPA) at the average system cost (ASC) of that utility's resources (electric power generation by the utility) pursuant to section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839h. The ASC is determined by BPA in accordance with 18 CFR Part 301.

(b) *Effectiveness of rates.* (1) During the period between the date of BPA's determination of ASC and the date of the final order issued by the Commission, the utility may charge the rate based on the ASC determined by BPA, subject to § 35.31(c) of this part.

(2) Except as otherwise provided under this section, the ASC ordered by the Commission will be deemed in effect from the beginning of the relevant exchange period, as defined in § 301.1(b)(95) of this chapter. For any initial exchange period after the Commission approves a new ASC methodology, the ASC will be effective retroactively under this paragraph only if the utility files its new ASC within the time allowed under BPA procedures. Any utility that files a revised ASC with BPA in accordance with this paragraph must promptly file with the Commission a notice of timely filing of the new ASC.

(c) *Filing requirements.* Within 15 business days of the date of issuance of the BPA report on a utility's ASC, the utility must file with the Commission the ASC determined by BPA, the BPA written report, the utility's ASC schedules, material necessary to comply with 18 CFR 35.13(c), and any other material requested by the Commission or its staff.

[Order 337, 48 FR 46976, Oct. 17, 1983, as amended by Order 400, 49 FR 39300, Oct. 5, 1984]

§ 35.31 Commission review.

(a) *Procedures.* Filings under this subpart are subject to the procedures applicable to other filings under section 205 of the Federal Power Act, as the Commission deems appropriate.

(b) *Commission standard.* With respect to any filing under this subpart, the Commission will detemine whether the ASC set by BPA for the applicable exchange period was determined in accordance with the ASC methodology set forth at 18 CFR 301.1. If the ASC is not in accord with the methodology, the Commission will order that BPA amend the ASC to conform with the methodology. If the ASC is in accord with the methodology, the rate is deemed just and reasonable.

(c) *Refunds and adjustments.* (1) Any ASC-based rate charged by a public utility under this subpart pending Commission order is subject to refund or to adjustment that increases the ASC-based rate.

(2) Any interest on refunds ordered by the Commission under this subpart is computed in accordance with 18 CFR 35.19a. Interest on any increase ordered by the Commission will be at the rate charged to BPA by the U.S. Treasury during that period, unless the Commission orders another interest rate.

(Approved by the Office of Management and Budget under control number 1902-0096)

[Order 337, 48 FR 46976, Oct. 17, 1983, as amended at 49 FR 1177, Jan. 10, 1984]

PART 37—GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

Sec.

37.1 Purpose.
37.2 Applicability.
37.3 Definitions.
37.4 Annual proceedings.
37.5 Quarterly determination of benchmark rate of return.
37.6 Application of benchmark rate of return in individual rate proceedings.
37.7 Burden of going forward.
37.8 Transitional provision.
37.9 Quarterly indexing procedure.

AUTHORITY: Federal Power Act, 16 U.S.C. 791a–825r (1982); Department of Energy Organization Act 42 U.S.C. 7101-7352 (1982).

SOURCE: Order 389, 49 FR 29955, July 25, 1984, unless otherwise noted.

§ 37.1 Purpose.

The purpose of this part is to establish procedures for determining benchmark rates of return for the jurisdictional operations of public utilities and for applying them in individual rate proceedings.

§ 37.2 Applicability.

This part applies to any initial rate schedule or any rate schedule change filed under § 35.12 or § 35.13 of the Commission's regulations by any public utility, as defined in section 201(e) of the Federal Power Act.

§ 37.3 Definitions.

For purposes of this part:

(a) "Benchmark rate of return" means the rate of return on common equity that is determined each quarter based on the findings made in the proceeding regarding the indexing procedure and the average cost of common equity for the jurisdictional operations of public utilities.

(b) "Cost of common equity" means the minimum rate of return that investors require to buy common stock adjusted for the flotation costs incurred by a company when selling such stock.

(c) "Indexing procedure" means the method by which the average cost of common equity under this part is updated quarterly between proceedings to determine benchmark rates of return.

[Order 442-A, 51 FR 22509, June 20, 1986; Order 489, 53 FR 3360, Feb. 5, 1988]

§ 37.4 Annual proceedings.

Each year the Commission will establish the growth rate and flotation cost to be used in the quarterly indexing procedure through informal rulemaking procedures under 5 U.S.C. 553.

[Order 489, 53 FR 3360, Feb. 5, 1988]

§ 37.5 Quarterly determination of benchmark rate of return.

Following the close of each calendar quarter, the Commission will determine and publish a benchmark rate of return in accordance with the quarterly indexing procedure of § 37.9.

[Order 442, 51 FR 371, Jan. 6, 1986]

§ 37.6 Application of benchmark rate of return in individual rate proceedings.

(a) *General rule.* Except as provided in § 37.8 and paragraph (b) of this section, it will be presumed that the allowed rate of return on common equity in an individual rate proceeding is the benchmark rate of return in effect at the time a rate schedule is filed pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (1982), or at the time the Commission sets a rate for investigation pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824e (1982).

(b) *Exceptions.* The benchmark rate of return will not be binding if:

(i) There is a settlement based on a different rate of return on common equity; or

(ii) The Commission determines that the risk of the public utility operations under the rate schedule at the time of filing is significantly different from the average risk for the jurisdictional operations of public utilities; or

(iii) The Commission determines that a finding of undue discrimination requires that a different rate of return be allowed.

(c) *Suspension period.* This section does not preclude a public utility from filing a rate schedule that includes a rate of return on common equity different from the benchmark rate of return and collecting its filed rate subject to refund in accordance with the Commission's suspension policy.

[Order 389, 49 FR 29955, July 25, 1984, as amended by Order 489, 53 FR 3360, Feb. 5, 1988]

§ 37.7 Burden of going forward.

The burden of going forward with evidence rebutting the presumption under § 37.6(a) will be on any participant contesting the use of the applicable benchmark rate of return in an individual rate proceeding.

§ 37.8 Transitional provision.

The benchmark rates of return under this part will be advisory only. The Commission may take official notice of the benchmark rates of return in individual rate proceedings if they are not otherwise made a part of the record.

[Order 489, 53 FR 3360, Feb. 5, 1988]

§ 37.9 Quarterly indexing procedure.

(a) *Procedure for Determining Quarterly Benchmark Rates of Return.* In accordance with § 37.4 of this part, the Commission will use the following indexing procedure to update quarterly the benchmark rate of return on common equity.

(1) For purposes of establishing the benchmark rate of return on common equity for period t, the average cost of common equity for the jurisdictional operations of public utilities shall be calculated as follows:

$k_t=a(y_t)+b$

where:

k_t = average cost of common equity for the jurisdictional operations of public utilities for period t;

a = adjustment factor to account for the timing of dividend increases (determined in proceeding);

Y_t = average current dividend yield applicable to period t determined under paragraph (b) of this section;

b = adjustment factor to account for expected growth, new common stock flotation costs and jurisdictional risk difference (determined in proceeding); and

t = successive three month time periods: February 1 through April 30, May 1 through July 31, August 1 through Ocotober 31, and November 1 through January 31.

(2) The benchmark rate of return on common equity for the first quarter to which a proceeding is applicable will be set equal to the average cost of common equity for the jurisdictional operations of public utilities as determined by the formula of paragraph (a)(1) of this section.

(3) The benchmark rate of return on common equity for subsequent quarters prior to the conclusion of the next proceeding will be set equal to the average cost of common equity for the jurisdictional operations of public utilities as determined by the formula of paragraph (a)(1) of this section.

(b) *Dividend Yield for Quarterly Benchmark Determination.* (1) For use in the quarterly benchmark calculations, the average dividend yield applicable to period t (y_t) will be determined as the simple average of the median dividend yields for the two most recent calendar quarters, where the median dividend yield (d_t) for each calendar quarter is defined per paragraph (b)(2) of this section.

$$Y_t = \frac{d_t + d_{t-1}}{2}$$

where

y_t = as in paragraph (a)(1) of this section;

d_t = median dividend yield (defined in paragraph (b)(2) of this section) for the most recent calendar quarter prior to period t; and

d_{t-1} = median dividend yield (defined in paragraph (b)(2) of this section) for the calendar quarter prior to the most recent calendar quarter.

(2) The median dividend yield for a calendar quarter will be determined as the median of the current dividend yields of the sample of companies defined in paragraph (c) of this section, where the current dividend yield for company i for period t is defined as follows:

$$d_{it} = \frac{D_{it}}{P_{it}}$$

where

D_{it} = annual common dividend rate for company i based on the latest common dividend payment by ex-date as of the end of the most recent calendar quarter prior to period t; and

P_{it} = average of the monthly high and low common stock prices for company i for the most recent calendar quarter prior to period t.

(c) *Sample of Companies Used to Calculate Quarterly Dividend Yields.* (1) Except as provided in paragraph (c)(2) of this section, the sample of companies used to calculate the average current dividend yield for the purpose of this section will be specified in the final order of each annual proceeding.

(2) Companies will be excluded from the sample used in the calculation of the dividend yield for any quarter if the following conditions occur:

(i) The company's common stock, through merger or other action, no longer is publicly traded, or

(ii) The company has decreased or omitted a common dividend payment in the current or prior three quarters, or

(iii) The Commission determines on a case-by-case basis that some other occurrence causes the dividend yield for that company to be substantially misleading and bias the resulting quarterly average.

(d) *Table of Quarterly Benchmark Rates of Return.* The following table presents the quarterly benchmark rates of return on common equity:

Benchmark applicability period (t)	Dividend increase adjustment factor (a)	Expected growth adjustment factor (b)	Current dividend yield (Y_t)	Cost of common equity (k_t)	Benchmark rate of return
February 1, 1986 to April 30, 1986	1.02	4.54	9.03	13.75	13.75
May 1, 1986 to July 31, 1986	1.02	4.54	8.37	13.08	13.25
August 1, 1986 to October 31, 1986	1.02	4.54	7.49	12.18	12.75
November 1, 1986 to January 31, 1987	1.02	4.54	6.75	11.43	12.25
February 1, 1987 to April 30, 1987	1.02	4.63	6.44	11.20	11.20
May 1, 1987 to July 31, 1987	1.02	4.63	6.54	11.30	11.30
August 1, 1987 to October 31, 1987	1.02	4.63	6.97	11.74	11.74
November 1 1987 to January 31, 1988	1.02	4.63	7.49	12.27	12.27
February 1, 1988 to April 30, 1988	1.02	4.36	7.90	12.42	12.42
May 1, 1988 to July 31, 1988	1.02	4.36	7.99	12.51	12.51
August 1, 1988 to October 31, 1988	1.02	4.36	7.84	12.36	12.36
November 1, 1988 to January 31, 1989	1.02	4.36	7.92	12.44	12.44
February 1, 1989 to April 30, 1989	1.02	4.33	7.89	12.38	12.38

[Order 442, 51 FR 371, Jan. 6, 1986, as amended at Order 461, 52 FR 31, Jan. 2, 1987; 52 FR 39909, Oct. 26, 1987;53 FR 3340, Feb. 5, 1988; Order 489, 53 FR 3360, Feb. 5, 1988; 54 FR 3435, Jan. 24, 1989]

PART 41—ACCOUNTS, RECORDS, AND MEMORANDA

ADJUSTMENTS OF ACCOUNTS AND REPORTS

Sec.
41.1 Notice of deficiencies.
41.2 Response to notification.
41.3 Facts and argument.
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CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

41.10 Examination of accounts.
41.11 Report of certification.
41.12 Qualifications of accountants.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a-828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982), unless otherwise noted.

SOURCE: Order 141, 12 FR 8500, Dec. 19, 1947, unless otherwise noted.

CROSS REFERENCE: For rules of practice and procedure, see Part 385 of this chapter.

ADJUSTMENTS OF ACCOUNTS AND REPORTS

§ 41.1 Notice of deficiencies.

If, as the result of an examination by a representative of the Commission of the accounts of a person subject to the act and to the Commission's accounting requirements, or of an examination of any statement or report submitted by such person, it appears that the accounts, or any books or records pertaining to or in support thereof, are not being kept and maintained as required by the Commission, or that the statements or reports prepared and submitted are not in proper form, the failure or deficiency will be called to the attention of such person either formally or informally as the circumstances appear to warrant.

§ 41.2 Response to notification.

If, as the result of such formal or informal notice, the matter is not adjusted within the time fixed by said notice, or within a reasonable time in case no date is specified, or if there is a disagreement between such person and the Commission or its representative respecting the application or interpretation of the act or requirements of the Commission with respect to the matter at issue, such person will be requested to advise the Commission in writing within a time to be specified whether it consents to the disposition of the questions involved under the shortened procedure provided in this part.

§ 41.3 Facts and argument.

If the person consents to the matter being handled under such shortened procedure, the person and any other parties interested, including representatives of the Commission, shall submit to the Commission, within 30 days after the receipt of notice from the Commission to do so, a memorandum of the facts and, separately stated, of the argument relied upon, to sustain the position taken respecting the matter at issue together with copies in sufficient number to enable the Commission to retain three copies for its own use and make service in accordance with § 385.2010 of this chapter, upon all parties designated in said notice. Twenty days will be allowed in which to file a reply by any party who filed an original memorandum.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 41.4 Form and style.

Each copy of such memorandum must be complete in itself. All pertinent data should be set forth fully, and each memorandum should set out the facts and argument as prescribed for briefs in § 385.706 of this chapter.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

§ 41.5 Verification.

The facts stated in the memorandum must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if hearing were had to testify as to the facts stated in the memorandum.

§ 41.6 Determination.

If no formal hearing is had the matter in issue will be determined by the Commission on the basis of the facts and arguments submitted.

§ 41.7 Assignment for oral hearing.

In case consent to the shortened procedure is not given, or if at any stage of the proceeding prior to the submission of the case to the Commission any party in interest requests a hearing, the proceeding will be assigned for hearing as provided for by Subpart E of Part 385 of this chapter. The Commission may also in its discretion set the proceeding for hearing on its own motion at any stage thereof.

[Order 141, 12 FR 8500, Dec. 19, 1947, as amended by Order 225, 47 FR 19057, May 3, 1982]

§ 41.8 Burden of proof.

The burden of proof to justify every accounting entry shall be on the person making, authorizing, or requiring such entry.

CERTIFICATION OF COMPLIANCE WITH ACCOUNTING REGULATIONS

§ 41.10 Examination of accounts.

(a) All Major and Nonmajor public utilities and licensees not classified as Class C or Class D prior to January 1, 1984 shall secure, for the year 1968 and each year thereafter until December 31, 1975, the services of an independent certified public accountant, or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, to test compliance in all material respects of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts and published accounting releases. The Commission expects that identification of questionable matters by the independent accountant will facilitate their early resolution and that the independent accountant will seek advisory rulings by the Commission on such items. This examination shall be deemed supplementary to periodic Commission examinations of compliance.

(b) Beginning January 1, 1976, and each year thereafter, only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, will be authorized to conduct annual audits and to certify to compliance in all material respects, of those schedules as are indicated in the General Instructions set out in the Annual Report, Form No. 1, with the Commission's applicable Uniform System of Accounts, published accounting releases and all other regulatory matters.

[Order 462, 37 FR 26005, Dec. 7, 1972, as amended by Order 390, 49 FR 32505, Aug. 14, 1984]

§ 41.11 Report of certification.

Each Major and Nonmajor public utility or licensee not classified as Class C or Class D prior to January 1, 1984 shall file with the Commission a letter or report of the independent accountant certifying approval, together with or within 30 days after the filing of the Annual Report, Form No. 1, covering the subjects and in the form prescribed in the General Instructions of the Annual Report. The letter or report shall also set forth which, if any, of the examined schedules do not conform to the Commission's requirements and shall describe the discrepancies that exist. The Commission shall not be bound by a certification of compliance made by an independent accountant pursuant to this paragraph.

(Sec. 304, 49 Stat. 855; 16 U.S.C. 825c)

[Order 356, 33 FR 143, Jan. 5, 1968, as amended by Order 390, 49 FR 32505, Aug. 14, 1984]

§ 41.12 Qualifications of accountants.

The Commission will not recognize any certified public accountant or public accountant through December 31, 1975, who is not in fact independent. Beginning January 1, 1976, and each year thereafter, the Commission will recognize only independent certified public accountants, or independent licensed public accountants who were licensed on or before December 31, 1970, who are in fact independent. For example, an accountant will not be considered independent with respect to any person or any of its parents or subsidiaries in whom he has, or had during the period of report, any direct financial interest. The Commission will determine the fact of independence by considering all the relevant circumstances including evidence bearing on the relationships between the accountant and that person or any affiliate thereof.

[Order 462, 37 FR 26006, Dec. 7, 1972]

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

Sec.

45.1 Applicability; who must file.
45.2 Positions requiring authorization.
45.3 Time of filing application.
45.4 Supplemental applications.
45.5 Supplemental information.
45.6 Termination of authorization.
45.7 Form of application; number of copies.
45.8 Contents of application; filing fee.
45.9 Automatic authorization of certain interlocking positions.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 141, 12 FR 8501, Dec. 19, 1947, unless otherwise noted.

CROSS REFERENCES: For rules of practice and procedure, see Part 385 of this chapter. For forms under rules of practice and regulations under the Federal Power Act, see Part 131 of this chapter.

EDITORIAL NOTE: For an order deferring billing for annual charges due to a Supreme Court ruling, see 38 FR 3401, Feb. 6, 1973.

§ 45.1 Applicability; who must file.

(a) This part applies to any person seeking to hold the following interlocking positions:

(1) Officer or director of more than one public utility;

(2) Officer or director of a public utility and of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility; or

(3) Officer or director of a public utility and of any company supplying electrical equipment to a public utility.

(b) Any person seeking to hold any interlocking position described in § 45.2 of this chapter must do the following:

(1) Apply for Commission authorization under § 45.8 of this chapter; or

(2) If qualified, comply with the requirements for automatic authorization under § 45.9 of this chapter.

[Order 446, 51 FR 4904, Feb. 10, 1986]

§ 45.2 Positions requiring authorization.

(a) The positions subject to this part shall include those of any person elected or appointed to perform the duties or functions ordinarily performed by a president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, director or partner, or to perform any other similar executive duties or functions, in any corporation[1] within the purview of section 305(b) of the Act. With respect to positions not herein specifically mentioned which applicant holds and which are invested with executive authority, applicant shall state in the application the source of such executive authority, whether by bylaws, action of the board of directors, or otherwise.

(b) Corporations[1] within the purview of section 305(b) of the Act include:

(1) Any public utility under the Act, which means any person who owns or operates facilities for the transmission of electric energy in interstate commerce, or any person who owns or operates facilities for the sale at wholesale of electric energy in interstate commerce.

(2) Any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities; this includes any corporation when so authorized whether or not same may also be a public utility and/or a holding company. (See 12 U.S.C. 378)

(3) Any company that supplies electrical equipment to a public utility in which applicant seeks authorization to hold a position, whether the supplying company be a manufacturer, or dealer, or one supplying electrical equipment pursuant to a construction, service, agency, or other contract.

(c) Regardless of any action which may have been taken by the Commission upon a previous application under section 305(b) of the Act, an application for approval under such section is required with reference to any position or positions not previously authorized which are within the purview of said section.

§ 45.3 Time of filing application.

(a) *Anticipatory application.* An application may be made in anticipation of election or appointment to a position or positions within the purview of section 305(b) of the Act.

(b) *Application after election or appointment.* Section 305(b) of the Act provides that the holding of positions within the purview of that section shall be unlawful unless the holding shall have been authorized by order of the Commission. Nothing in this Part shall be construed as authorizing the holding of positions prior to the order of the Commission on application therefor. Applications shall be filed within 30 days after election or appointment to any positions within the purview of section 305(b) of the Act.

§ 45.4 Supplemental applications.

(a) *New positions.* In the event of a change or changes in the information set forth in an application, by the applicant's election or appointment to another position or other positions in corporations within the purview of section 305(b) of the Act, the application shall be supplemented by the applicant's setting forth all the data with respect to the new position or positions in accordance with the requirements of this part.

(b) *Old positions.* After applicant has been authorized to hold a particular position, further application in connection with each successive term so long as he continues in uninterrupted tenure of such position will not be required except as ordered by the Commission. If the term of office or the holding of any position for which authorization has been given shall be interrupted and the applicant shall subsequently be reelected or reappointed thereto, further authorization will be required.

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[1] "Corporation" means any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. It shall not include "municipalities" as defined in the Federal Power Act (sec. 3, 49 Stat. 838; 16 U.S.C. 796).

§ 45.5 Supplemental information.

(a) *Required by Commission.* Applicants under this part shall upon request of the Commission and within such time as may be allowed, supplement any application or any supplemental application with any information required by the Commission.

(b) *Notice of changes.* In the event of the applicant's resignation, withdrawal, or failure of reelection or appointment in respect to any of the positions for which authorization has been granted by the Commission, or in the event of any other material or substantial change therein, the applicant shall within 30 days after any such change occurs, give notice thereof to the Commission setting forth the position corporation, and date of termination therewith, or other material or substantial change.

(c) *Reports.* All persons holding positions by authorization of the Commission under section 305(b) of the Act may be required to file such periodic or special reports as the Commission may deem necessary.

§ 45.6 Termination of authorization.

(a) *By the Commission.* Orders of authorization under section 305(b) of the Act are subject to revocation by the Commission after due notice to applicant and opportunity for hearing. In any such proceeding the burden of proof shall be upon the applicant to show that neither public nor private interests will be adversely affected by the holding of such positions.

(b) *Without action of the Commission.* Whenever a person shall cease to hold a position theretofore authorized to be held by the Commission or such position shall cease to be within the purview of section 305(b) of the Federal Power Act, the Commission's authorization to hold such position shall terminate without further action by the Commission. If upon such termination of authorization as aforesaid, such person does not continue to hold at least two positions authorized and then requiring authorization pursuant to said section 305(b) of the Act, all authorization theretofore given by the Commission shall thereupon terminate.

§ 45.7 Form of application; number of copies.

An original and two copies of each application, supplemental application, statement of supplemental information, notice of change and report required to this part, together with one additional copy for each interested State commission, shall be filed with the Commission. Each original shall be dated, signed by the applicant and verified under oath in accordance with § 131.60 of this chapter. Each copy shall bear the date and signature that appear on the original and shall be complete in itself, but the signature in the copies may be stamped or typed and the notarial seal may be omitted. The application shall conform to Subpart T of Part 385 of this chapter.

[Order 141, 12 FR 8501, Dec. 19, 1947, as amended by Order 225, 47 FR 19057, May 3, 1982]

§ 45.8 Contents of application; filing fee.

Each application shall be accompanied by the fee prescribed in Part 381 of this chapter and shall state the following:

(a) *Identification of applicant.* (1) Full name, business address and state of residence.

(2) Major business or professional activity.

(3) If former application or applications under section 305(b) of the Act have been made by the applicant, give date and docket number of the last application filed.

(b) *List of positions within the purview of section 305(b) of the Act for which authorization is sought.* (Indicate by asterisk positions which were the subjects of previous authorizations.)

Position	Name of corporation	Classification: (1) Public utility, (2) authorized by law to underwrite, (3) supplying electrical equipment

(c) *Data as to positions with each public utility mentioned in paragraph (b) of this section.* (The format should be adapted to the information submitted, in keeping with completeness and conciseness. In the case of public utilities of the same holding company system, brevity will generally be promoted by submitting the information for all of the utilities involved under each subsection progressively in the order of the subsections, utilizing tables when feasible.)

(1) Name of utility.

(2) Date elected or appointed, or anticipated date of election or appointment, to each position not previously authorized.

(3) Names of officers and directors; number of vacancies, if any, on Board of Directors.

(4) Description of applicant's duties: Approximate amount of time devoted thereto; and, if applicant seeks authorization as a director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.

(5) All other professional, contractual, or business relationships of applicant with the public utility, either directly or through other corporations or firms.

(6) Extent of applicant's direct or indirect ownership, control of, or beneficial interest in the public utility or the securities thereof. If ownership or interest is held in a name other than that of applicant, state name and address of the holder.

(7) Extent of applicant's indebtedness to the public utility, how and when incurred, and consideration therefor.

(8) All money or property received by applicant from the public utility or any affiliate (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the public utility's most recently ended fiscal year, and expected during the public utility's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor. If applicant's compensation for services to the public utility is not paid directly by the public utility, give name of the corporation that does pay same, the amount allocated or allocable to the public utility or any affiliate, and the basis or reason for such allocation.

(9) Whether during the past 5 years the public utility or any affiliate thereof or any security holders of either have commenced any suit against the officers or directors thereof for alleged waste, mismanagement or violation of duty, to which suit applicant was a party defendant. If so, give date of commencement of suit, court in which commenced, and present status.

(d) *Data as to positions with each bank, trust company, banking association or firm, mentioned in paragraph (b) of this section, that is authorized by law to underwrite or participate in the marketing of securities of a public utility.* (The applicant shall use a separate sheet for each corporation.)

(1) Name of corporation and address of principal place of business.

(2) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(3) Description of applicant's duties in each position and the approximate amount of time devoted thereto, and, if applicant seeks authorization as director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.

(4) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(5) All money or property received by applicant from the company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the company's most recently ended fiscal year, and expected during the company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(6) Names and titles of directors, officers, or partners.

(7) Whether the corporation is now engaged in underwriting or participating in the marketing of the securities of a public utility; if so, to what extent.

(8) Whether the corporation, during applicant's connection therewith, has underwritten or participated in the marketing of the security issue of any public utility with which applicant was also connected; if so, the details with respect to every such transaction that occurred during the past 36 months.

(9) (If the answer to paragraph (d)(7) of this section is in the negative.) Give excerpts from the charter, declaration of trust, or articles of partnership that authorize the underwriting or participating in the marketing of securities of a public utility.

(10) (If the answer to paragraph (d)(7) of this section is in the negative.) Give general requirements of and appropriate reference to, the laws of the State of organization and of States in which corporation is doing business or has qualified to do business, with which it must comply in order to engage in the business of underwriting or participating in the marketing of the securities of a public utility.

(11) What steps, if any, have been taken to comply with laws mentioned in paragraph (d)(10) of this section.

(12) In lieu of paragraphs (d)(9), (10), and (11) of this section, an opinion by counsel to the same effect and including the information in respect thereto may be filed with the application.

(13) Whether the corporation has registered with the Securities and Exchange Commission; if so, when and under what section of what act.

(e) *Data as to positions with each company, mentioned in paragraph (b) of this section, supplying electrical equipment to a public utility in which applicant holds a position.* (Applicant shall use a separate sheet for each company.)

(1) Name of company and address of principal place of business.

(2) Positions which applicant holds or seeks authorization to hold therein and when and by whom elected or appointed to each position.

(3) Description of applicant's duties in each position and approximate amounts of time devoted thereto, and, if applicant seeks authorization as director, the percentage of directors meetings held during the past 12 months that were attended by the applicant.

(4) Names and titles of directors or partners.

(5) Name of each public utility, with which applicant holds or seeks authorization to hold a position, to which the company supplies electrical equipment; the frequency of such transactions; the approximate annual dollar volume of such business; and the type of equipment supplied.

(6) Nature of relationship between the company supplying electrical equipment and the public utility:

(i) Whether company manufactures such electrical equipment or is a dealer therein.

(ii) Whether company supplies electrical equipment to the public utility pursuant to construction, service, agency, or other contract with the public utility or an affiliate thereof, and, if so, furnish brief summary of the terms of such contract.

(7) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(8) All money or property received by applicant from the company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the company's most recently ended fiscal year, and expected during the company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(f) *Data as to positions with public utility holding companies.* (Do not include here data as to corporations listed in paragraph (b) of this section which are also holding companies. A "holding company" as herein used means any corporation which directly or indirectly owns, controls, or holds with power to vote, 10 per centum or more, of the outstanding voting securities of a public utility.)

(1) Name of holding company and address of principal place of business.

(2) Positions which applicant holds therein, when and by whom elected or appointed to each position.

(3) Extent of applicant's direct or indirect ownership, or control of, or beneficial interest in, the holding company or in the securities thereof, including common stock, preferred stock, bonds, or other securities. If such ownership or interest is held in a name other than that of applicant, state name and address of such holder.

(4) All money or property received by applicant from the holding company (i) during the past 12 months, and expected during the ensuing 12 months, or (ii) during the holding company's most recently ended fiscal year, and expected during the holding company's current fiscal year, or (iii) during the past and current calendar years, whether for services, reimbursement for expenses, or otherwise. Specify in detail the amount thereof and the basis therefor.

(g) *Positions with all other corporations.* (Do not include here data that have been filed within the past 12 months in FERC-561, pursuant to Part 46 of this chapter, or data as to any corporations listed in paragraph (b) or (f) of this section.)

(1) All other corporations and positions therein, including briefly the information required in parallel columns as below:

Name of corporation	Address: Kind of business	Position held therein

(2) Any corporate, contractual, financial, or business relationships between any of the corporations listed in paragraph (g)(1) of this section and any of the public utilities listed in paragraph (b) of this section.

(h) *Data as to the public utility holding company system.* The names of the public utility holding company systems of which each public utility listed in paragraph (b) of this section is a part, with a chart showing the corporate relationships existing between and among the corporations within the holding company systems.

[Order 246, 27 FR 4912, May 25, 1962, as amended by Order 427, 36 FR 5598, Mar. 25, 1971; Order 374, 49 FR 20479-20480, May 15, 1984; Order 435, 50 FR 40358, Oct. 3, 1985]

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR Ch. II.

§ 45.9 Automatic authorization of certain interlocking positions.

(a) *Applicability.* Subject to paragraphs (b) and (c) of this section, the Commission authorizes any officer or director of a public utility to hold the following interlocking positions:

(1) Officer or director of one or more other public utilities if the same holding company owns, directly or indirectly, that percentage of each utility's stock (of whatever class or classes) which is required by each utility's bylaws to elect directors;

(2) Officer or director of two public utilities, if one utility is owned, wholly or in part, by the other and, as its primary business, owns or operates transmission or generating facilities to provide transmission service or electric power for sale to its owners; and

(3) Officer or director of more than one public utility, if such officer or director is already authorized under this part to hold different positions as officer or director of those utilities where the interlock involves affiliated public utilities.

(b) *Conditions of authorization.* Any person authorized to hold interlocking positions under this section must submit, not later than 30 days after assuming the duties of the position, an informational report in accordance with paragraph (c) of this section, unless that person is already authorized to hold interlocking positions of the type governed by this section.

(c) *Informational report* An informational report required under paragraph (b) of this section must state:

(1) The full name and business address of the person required to submit this report;

(2) The names of all public utilities with which the person holds or will hold the positions of officer or director and a description of those positions;

(3) The names of any entity, other than those listed in paragraph (c)(2) of this section, of which the person is an officer or director and a description of those positions; and

(4) An explanation of the corporate relationship between or among the public utilities listed in paragraph (c)(2) of this section which qualifies the person for automatic authorization under this section.

[Order 446, 51 FR 4905, Feb. 10, 1986]

PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

Sec.
46.1 Purpose.
46.2 Definitions.
46.3 Purchaser list.
46.4 General rule.
46.5 Covered entities.
46.6 Contents of the written statement and procedures for filing.

AUTHORITY: Federal Power Act, as amended, (16 U.S.C. 792-828c); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; Department of Energy Organization Act, (42 U.S.C. 7101-7352); E.O. 12009, 3 CFR 142 (1978).

SOURCE: 45 FR 23418, Apr. 7, 1980, unless otherwise noted.

§ 46.1 Purpose.

The purpose of this part is to implement section 305(c) of the Federal Power Act, as amended by section 211 of the Public Utility Regulatory Policies Act of 1978.

[Order 67, 45 FR 3569, Jan. 18, 1980]

§ 46.2 Definitions.

For the purpose of this part:

(a) "Public utility" has the same meaning as in section 201(e) of the Federal Power Act and further includes any company which is part of a holding company system which includes a registered holding company unless no company in such system is an electric utility within the meaning of section 3 of the Federal Power Act. Such term does not include any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture or any other entities covered in section 201(f) of the Federal Power Act.

(b) The following terms have the same meaning as in the Public Utility Holding Company Act of 1935:

(1) Holding company system; and

(2) Registered holding company.

(c) "Purchaser" means any individual or corporation within the meaning of section 3 of the Federal Power Act who purchases electric energy from a public utility. Such term does not include the United States or any agency or instrumentality of the United States or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(d) "Control" and "controlled" mean the possession, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. A rebuttable presumption that control exists arises from the ownership or the power to vote, directly or indirectly, ten percent (10%) or more of the voting securities of such entity.

(e) "Entity" means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. Such term does not include "municipality" as defined in section 3 of the Federal Power Act and does not include any Federal, State, or local government agencies or any rural electric cooperative which is regulated by the Rural Electrification Administration of the Department of Agriculture.

(f) "Electrical equipment" means any apparatus, device, integral component, or integral part used in an activity which is electrically, electronically, mechanically, or by legal prescription necessary to the process of generation, transmission, or distribution of electric energy.[1]

(g) "Produces or supplies" means any transaction including a sale, lease, sale-leaseback, consignment, or any other transaction in which an entity provides electrical equipment, coal, natural gas, oil, nuclear fuel, or other fuel to any public utility either directly or through an entity controlled by such entity.

(h) "Appointee" means any person appointed on a temporary or permanent basis to perform any duties or functions described in § 46.4(a).

(i) "Representative" means any person empowered, through oral or written agreement, to transact business on behalf of an entity and any person who serves as an advisor regarding policy or management decisions of the entity. The term does not include attorneys, accountants, architects, or any other persons who render a professional service on a fee basis.

§ 46.3 Purchaser list.

(a) *Compilation and filing list.* On or before January 31 of each year, each public utility shall complile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. An original and two (2) copies of such list shall be filed with the Commission by the public utility and the list shall be made publicly available through its principal business office.

(b) *Largest purchasers.* The list required under paragraph (a) of this section shall include each purchaser who, during any of the three (3) preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty (20) largest amounts of electric energy measured in kilowatt hours sold (for purposes other than resale) by such utility during such year.

(c) *Special rules.* If data for actual annual sales (for purposes other than resale) are not available in the records of the public utility, the utility may use estimates based on actual data available to it. If one purchaser maintains several billing accounts with the public utility, the kilowatt hours purchased in each account of that purchaser shall be aggregated to arrive at the total for that purchaser.

(d) *Notification of largest purchasers.* Each public utility shall notify by January 31 of each year each purchaser which has been identified on the list of largest purchasers under paragraph (b) of this section.

(e) *Revision of the list.* Each public utility relying upon any estimates for its January 31st filing, shall revise the list compiled under paragraph (b) of this section no later than March 1 of the year in which the list was originally filed to reflect actual data not available to the utility prior to that time. Any revised list shall be filed with the Commission and made publicly available through the utility's principal business office no later than March 1. A utility filing a revised list shall indicate thereon the changes made to the list previously filed under paragraph (b) of this section. On or before the filing and publication of the revised list, the public utility shall notify the newly-listed purchasers and any purchasers whose names were removed from the list.

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[1] Guidance in applying the definition of "electrical equipment" may be obtained by examining the items within the following accounts described in Part 101, Title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 346); Water wheels, turbines and generators (333); Fuel holders, producers, and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (356 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customers' premises (371); Street lighting and signal systems (373); Leased property on customers' premises (372); and Communication equipment (397). Excepted from these accounts, are vehicles, structures, foundations, settings, and services.

[Order 67, 45 FR 3569, Jan. 18, 1980; 45 FR 6377, Jan. 28, 1980]

§ 46.4 General rule.

A person must file with the Office of the Secretary of the Commission a written statement in accordance with § 46.6, and in the form specified in § 131.31 of this chapter (except that with respect to calendar year 1980, no filings in the form specified in § 131.31 is required if such person has previously filed the statement required for calendar year 1980 in a different form than specified in § 131.31), if such person:

(a) Serves for a public utility in any of the following positions: A director or a chief executive officer, president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, or any other position in which such person performs similar executive duties or functions for such public utility; and

(b) Serves for any entity described in § 46.5 in any of the positions described in paragraph (a) of this section or is a partner, appointee, or representative of such entity.

[45 FR 23418, Apr. 7, 1980, as amended by Order 140, 46 FR 22181, Apr. 16, 1981]

§ 46.5 Covered entities.

Entities to which the general rule in § 46.4(b) applies are the following:

(a) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(b) Any entity which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(c) Any entity which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(d) Any entity specified in § 46.3;

(e) Any entity referred to in section 305(b) of the Federal Power Act; and

(f) Any entity which is controlled by any entity referred to in this section.

§ 46.6 Contents of the written statement and procedures for filing.

Each person required to file a written statement under the general rule in § 46.4 shall comply with the following requirements:

(a) Each person shall provide the following information: full name and business address; identification of the public utilities and the covered entities in which such person holds executive positions described in § 46.4; and identification of the interlock described in § 46.4;

(b) If the interlock is between a public utility and an entity described in § 46.5(c), which produces or supplies electrical equipment for use of such public utility, such person shall provide the following information:

(1) The aggregate amount of revenues received by such entity from producing or supplying electrical equipment to such public utility in the calendar year specified in paragraph (d) of this section, rounded up to the nearest $100,000; and

(2) The nature of the business relationship between such public utility and such entity.

(c) If the person is authorized by the Commission to hold the positions of officer or director in accordance with Part 45, such person shall identify the authorization by docket number and shall give the date of authorization.

(d)(1) Each person shall file an original and two copies of such written statement with the Office of Secretary of the Commission on or before April 30 of each year immediately following the calendar year during any portion of which such person held a position described in § 46.4. The original of such statement shall be dated, signed by such person, and verified under oath in accordance with § 131.60 of this chapter. Each copy shall bear the date that appeared on the original; the signature may be stamped or typed on the copy, and the notarial seal may be omitted.

(2) Such statement shall be available to the public during regular business hours through the Commission's Office of Public Information and shall be made publicly available through the principal business offices of the public utility and any entity to which it applies on or before April 30 of the year the statement was filed with the Commission.

(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[45 FR 23418, Apr. 7, 1980]

PART 50—FILING OF COMPANY PROCUREMENT POLICIES AND PRACTICES

§ 50.1 Filing of company procurement policies and practices.

Not later than January 1, 1970, each licensee, permittee, and public utility shall be required to reduce to writing, file with the Commission in triplicate and make available to any member of the public upon request a comprehensive statement of its procurement policies and procedures. Amendments thereto shall likewise be filed and made available to the public, upon specific request, within 30 days of their effective dates. Statements of procurement policies and procedures shall include, but not be limited to, the following:

(a) The objectives of the company in its procurement function.

(b) Policies governing the choice of procurement method (sealed-bid formal advertising, competitive negotiation, noncompetitive contract awards, etc.) with specific reference to the following categories:

(1) Equipment.

(2) Materials and supplies.

(3) Construction.

(4) Repair, maintenance and management services.

(5) Research and development.

(c) Extent and nature of public notice of proposed procurements, and of direct notice to prospective suppliers.

(d) The extent of the competition required. This should include any limitations to or preferences for suppliers in the utility service areas.

(e) The method of qualifying the suppliers.

(f) The policy adopted by the utility of putting names on their bidders list and also under what circumstances names would be removed from the bidders list.

(g) The company personnel that vendors should contact.

(h) Procedures governing the opening of sealed bids and proposals, negotiations with bidders or offerors, and criteria for contract award thereunder.

(i) Policies and procedures with respect to types of contracts (cost-plus, incentive type, fixed price, etc.).

(j) The circumstances under which negotiations are made without competition such as for emergencies, repair parts, accessory and supplemental equipment, matching existing equipment or architectural design.

(k) Any special procurement policies or restrictions such as those relating to regional, state or local suppliers, small business suppliers, procurement from corporate affiliates, and union or nonunion suppliers.

(l) Any "Buy American" policy that the company may adopt.

(m) Policies and procedures, if any, with respect to approval or control of subcontracts and subcontractors.

(n) Any applicable Federal and state laws and agreements with employee organizations which might affect the procurement policy.

(Secs. 304, 309, as amended, 49 Stat. 855, 858; 16 U.S.C. 825c, 825h; sec. 16, 52 Stat. 830; 15 U.S.C. 717o)

[Order 386, 34 FR 12825, Aug. 7, 1969]

SUBCHAPTER C—ACCOUNTS, FEDERAL POWER ACT

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Exec. Order No. 12,009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 218, 25 FR 5014, June 7, 1960, as amended by Order 276, 28 FR 14267, Dec. 25, 1963, Order 290, 29 FR 18214, Dec. 23, 1964; 30 FR 484, Jan. 14, 1965; Order 322, 31 FR 7898, June 3, 1966; Order 343, 32 FR 6678, May 2, 1967; 32 FR 8657, June 16, 1967; Order 354, 32 FR 15671, Nov. 14, 1967; Order 866, 33 FR 10135, July 16, 1968; Order 389, 34 FR 17436, Oct. 29, 1969; Order 393, 34 FR 20269, Dec. 25, 1969; Order 389A, 35 FR 879, Jan. 22, 1970; Order 393A, 35 FR 5943, Apr. 10, 1970; Order 408, 35 FR 13985, Sept. 3, 1970; Order 419, 36 FR 518, Jan. 14, 1971; Order 420, 36 FR 507, Jan. 14, 1971; Order 421, 36 FR 3047, Feb. 17, 1971; 36 FR 4386, Mar. 5, 1971; Order 432, 36 FR 8240, May 1, 1971; Order 434, 36 FR 11431, June 12, 1971; Order 436, 36 FR 15529, Aug. 17, 1971; Order 439, 36 FR 20869, Oct. 30, 1971; Order 454, 37 FR 14226, July 18, 1972; Order 460, 37 FR 24659, Nov. 18, 1972; Order 469, 38 FR 4248, Feb. 12, 1973; Order 462, 38 FR 4948, Feb. 23, 1973; Order 463, 38 FR 7214, Mar. 19, 1973; Order 475, 38 FR 6667, Mar. 12, 1973; Order 488, 38 FR 12115, May 9, 1973; Order 486, 38 FR 18873, July 16, 1973; Order 490, 38 FR 23332, Aug. 29, 1973; Order 486-1, 38 FR 30434, Nov. 5, 1973; Order 473, 39 FR 2469, Jan. 22, 1974; Order 504, 39 FR 6073, Feb. 19, 1974; Order 505, 39 FR 6093, Feb. 19, 1974; Order 505, 39 FR 22417, June 24, 1974; Order 530, 40 FR 26983, June 26, 1975; Order 549, 41 FR 24993, June 22, 1976; Order 561, 42 FR 9163, Feb. 15, 1977; Order 566, 42 FR 30156, June 13, 1977; Order 567, 42 FR 30613, June 16, 1977; Order 5, 43 FR 15418, Apr. 13, 1978; Order 258, 47 FR 42723, Sept. 29, 1982; 48 FR 32567, 32568, 32570, July 18, 1983; Order 390, 49 FR 32505, Aug. 14, 1984; 50 FR 5744, Feb. 12, 1985; Order 435, 50 FR 40358, Oct. 3, 1985.

NOTE: Order 141, 12 FR 8503, Dec. 19, 1947, provides in part as follows:

Prescribing a system of accounts for public utilities and licensees under the Federal Power Act. The Federal Power Commission acting pursuant to authority granted by the Federal Power Act, particularly sections 301(a), 304(a), and 309, and paragraph (13) of section 3, section 4(b) thereof, and finding such action necessary and appropriate for carrying out the provisions of said act, hereby adopts the accompanying system of accounts entitled "Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act," and the rules and regulations contained therein; and *It is hereby ordered:*

(a) That said system of accounts and said rules and regulations contained therein be and the same are hereby prescribed and promulgated as the system of accounts and rules and regulations of the Commission to be kept and observed by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein;

(b) That said system of accounts and rules and regulations therein contained shall, as to all public utilities now subject to the jurisdiction of the Commission and as to all present licensees, become effective on January 1, 1937, and as to public utilities and licensees which may hereafter become subject to the jurisdiction of the Commission, they shall become effective as of the date when such public utility becomes subject to the jurisdiction of the Commission or on the effective date of the license;

(c) That a copy of said system of accounts and rules and regulation contained therein be forthwith served upon each public utility subject to the jurisdiction of the Commission, and each licensee or permittee holding a license or permit from the Commission.

This system of accounts supersedes the system of accounts prescribed for licensees under the Federal Water Power Act; and Order No. 13, entered November 20, 1922, prescribing said system of accounts, was rescinded effective January 1, 1937.

Applicability of system of accounts. This system of accounts is applicable in principle to all licensees subject to the Commission's accounting requirements under the Federal Power Act, and to all public utilities subject to the provisions of the Federal Power Act. The Commission reserves the right, however, under the provisions of section 301(a) of the Federal Power Act to classify such licensees and public utilities and to prescribe a system of classification of accounts to be kept by and which will be convenient for and meet the requirements of each class.

This system of accounts is applicable to public utilities, as defined in this part, and to licensees engaged in the generation and sale of electric energy for ultimate distribution to the public.

This system of accounts shall also apply to agencies of the United States engaged in the generation and sale of electric energy for ultimate distribution to the public, so far as may be practicable, in accordance with applicable statutes.

In accordance with the requirements of section 3 of the Act (49 Stat. 839; 16 U.S.C. 796(13)), the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission", is published and promulgated as a part of the accounting rules and regulations of the Commission, and a copy thereof appears as Part 103 of this chapter. Irrespective of any rules and regulations contained in this system of accounts, the cost of original projects licensed under the Act, and also the cost of additions thereto and betterments thereof, shall be determined under the rules and principles as defined and interpreted in said classification of the Interstate Commerce Commission so far as applicable.

CROSS REFERENCES: For application of uniform system of accounts to Class C and D public utilities and licensees, see Part 104 of this chapter. For statements and reports, see Part 141 of this chapter.

Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act

Definitions

When used in this system of accounts:

1. "Accounts" means the accounts prescribed in this system of accounts.

2. "Actually issued," as applied to securities issued or assumed by the utility, means those which have been sold to bona fide purchasers for a valuable consideration, those issued as dividends on stock, and those which have been issued in accordance with contractual requirements direct to trustees of sinking funds.

3. "Actually outstanding," as applied to securities issued or assumed by the utility, means those which have been actually issued and are neither retired nor held by or for the utility; provided, however, that securities held by trustees shall be considered as actually outstanding.

4. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

5. A. "Associated (affiliated) companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting company.

B. "Control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

6. "Book cost" means the amount at which property is recorded in these accounts without deduction of related provisions for accrued depreciation, amortization, or for other purposes.

7. "Commission," means the Federal Energy Regulatory Commission.

8. "Continuing Plant Inventory Record" means company plant records for retirement units and mass property that provide, as either a single record, or in separate records readily obtainable by references made in a single record, the following information:

A. For each retirement unit:

(1) The name or description of the unit, or both;

(2) The location of the unit;

(3) The date the unit was placed in service;

(4) The cost of the unit as set forth in Plant Instructions 2 and 3 of this part; and

(5) The plant control account to which the cost of the unit is charged; and

B. For each category of mass property:

(1) A general description of the property and quantity;

(2) The quantity placed in service by vintage year;

(3) The average cost as set forth in Plant Instructions 2 and 3 of this part; and

(4) The plant control account to which the costs are charged.

9. "Cost" means the amount of money actually paid for property or services. When the consideration given is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of common stock in a merger or a pooling of interest, the value of such consideration shall be determined on a cash basis.

10. "Cost of removal" means the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto.

11. "Debt expense" means all expenses in connection with the issuance and initial sale of evidences of debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds and certificates of indebtedness; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs.

12. "Depreciation," as applied to depreciable electric plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of electric plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities.

13. "Discount," as applied to the securities issued or assumed by the utility, means the excess of the par (stated value of no-par stocks) or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale.

14. "Investment advances" means advances, represented by notes or by book accounts only, with respect to which it is mutually agreed or intended between the creditor and debtor that they shall be settled by the issuance of securities or shall not be subject to current settlement.

15. "Lease, capital" means a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in General Instruction 19.

16. "Lease, operating" means a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in General Instruction 19.

17. "Licensee" means any person, or State, licensed under the provisions of the Federal Power Act and subject to the Commission's accounting requirements under the terms of the license.

18. "Minor items of property" means the associated parts or items of which retirement units are composed.

19. "Net salvage value" means the salvage value of property retired less the cost of removal.

20. "Nominally issued," as applied to securities issued or assumed by the utility, means those which have been signed, certified, or otherwise executed, and placed with the proper officer for sale and delivery, or pledged, or otherwise placed in some special fund of the utility, but which have not been sold, or issued direct to trustees of sinking funds in accordance with contractual requirements.

21. "Nominally outstanding," as applied to securities issued or assumed by the utility, means those which, after being actually issued, have been reacquired by or for the utility under circumstances which require them to be considered as held alive and not retired, provided, however, that securities held by trustees shall be considered as actually outstanding.

22. "Nonproject property" means the electric plant of a licensee which is not a part of the project property subject to a license issued by the Commission.

23. "Original cost," as applied to electric plant, means the cost of such

property to the person first devoting it to public service.

24. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or any organized group of persons, whether incorporated or not, or any receiver or trustee.

25. "Premium," as applied to securities issued or assumed by the utility, means the excess of the cash value of the consideration received from their sale over the sum of their par (stated value of no-par stocks) or face value and interest or dividends accrued at the date of sale.

26. "Project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

27. "Project property" means the property described in and subject to a license issued by the Commission.

28. "Property retired," as applied to electric plant, means property which has been removed, sold, abandoned, destroyed, or which for any cause has been withdrawn from service.

29. "Public utility" means any person who owns or operates facilities subject to the jurisdiction of the Commission under the Federal Power Act. (See section 201(e) of said act.)

30. A. "Replacing" or "replacement," when not otherwise indicated in the context, means the construction or installation of electric plant in place of property retired, together with the removal of the property retired.

B. "Research, Development, and Demonstration" (RD&D) in the case of Major utilities means expenditures incurred by public utilities and licensees either directly or through another person or organization (such as research institute, industry association, foundation, university, engineering company or similar contractor) in pursuing research, development, and demonstration activities including experiment, design, installation, construction, or operation. This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and commercially feasible operations are verified. Such research, development, and demonstration costs should be reasonably related to the existing or future utility business, broadly defined, of the public utility or licensee or in the environment in which it operates or expects to operate. The term includes, but is not limited to: All such costs incidental to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar items, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of alternate sources of electricity; and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional electric power supplies that rely on technology that has not been verified previously to be feasible. The term does not include expenditures for efficiency surveys; studies of management, management techniques and organization; consumer surveys, advertising, promotions, or items of a like nature.

31. "Retained Earnings" (formerly earned surplus) means the accumulated net income of the utility less distribution to stockholders and transfers to other capital accounts.

32. "Retirement units" means those items of electric plant which, when retired, with or without replacement, are accounted for by crediting the book cost thereof to the electric plant account in which included.

33. "Salvage value" means the amount received for property retired, less any expenses incurred in connection with the sale or in preparing the property for sale; or, if retained, the amount at which the material recoverable is chargeable to materials and supplies, or other appropriate account.

34. "Service life" means the time between the date electric plant is includible in electric plant in service or electric plant leased to others, and the date of its retirement. If depreciation is accounted for on a production basis rather than on a time basis, then service life should be measured in terms of the appropriate unit of production.

35. "Service value" means the difference between original cost and net salvage value of electric plant.

36. "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

37. "Subsidiary Company" in the case of Major utilities means a company which is controlled by the utility through ownership of voting stock. (See "Definitions" item 5B, "Control"). A corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group is a subsidiary company for the purposes of this system of accounts.

38. "Utility," as used herein and when not otherwise indicated in the context, means any public utility or licensee to which this system of accounts is applicable.

GENERAL INSTRUCTIONS

1. *Classification of utilities.*

A. For purpose of applying the system of accounts prescribed by the Commission, electric utilities and licensees are divided into classes, as follows:

(1) *Major.* Utilities and licensees that had, in each of the last three consecutive years, sales or transmission service that exceeded any one or more of the following:

(1) One million megawatt-hours of total sales;

(2) 100 megawatt-hours of sales for resale;

(3) 500 megawatt-hours of gross interchange out; or

(4) 500 megawatt-hours of wheeling for others (deliveries plus losses).

(2) *Nonmajor.* Utilities and licensees that are not classified as "Major" (as defined above), and had total sales in each of the last three consecutive years of 10,000 megawatt-hours or more.

B. This system applies to both Major and Nonmajor utilities and licensees. Provisions have been incorporated into this system for those entities which, prior to January 1, 1984, were applying the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees subject to the Provisions of the Federal Power Act (Class C and Class D) [Part 104 of this chapter, now revoked]. The notations "(Nonmajor)" and "(Major)" have been used to indicate those instructions and accounts from previous systems and classifications, which by definition, are not interchangeable without causing a loss of detail for the Major (previously Class A and Class B) or an increase in detail burden on the Nonmajor (previously Class C and Class D).

C. The class to which any utility or licensee belongs will originally be determined by its annual megawatt hours in each of the last three consecutive years, or in the case of a newly established entity, the projected data shall be the basis. Subsequent changes in classification shall be made as necessary when the megawatt-hours for each of the three immediately preceding years shall exceed the upper limit, or be less than the lower limit of the classification previously applicable to the utility.

D. Any utility may, at its option, adopt the system of accounts prescribed by the Commission for any larger class of utilities.

2. *Records.*

A. Each utility shall keep its books of account and all other books, records, and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification, analysis, and verification of all facts relevant thereto.

B. The books and records referred to herein include not only accounting records in a limited technical sense, but all other records, such as minute books, stock books, reports, correspondence, memoranda, etc., which may be useful in developing the history of or facts regarding any transaction.

C. No utility shall destroy any such books or records unless the destruction thereof is permitted by rules and regulations of the Commission.

D. In addition to prescribed accounts, clearing accounts, temporary or experimental accounts, and subdivisions of any accounts, may be kept, provided the integrity of the prescribed accounts is not impaired.

E. All amounts included in the accounts prescribed herein for electric plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.

F. The arrangement or sequence of the accounts prescribed herein shall not be controlling as to the arrangement or sequence in report forms which may be prescribed by the Commission.

3. *Numbering System.*

A. The account numbering plan used herein consists of a system of three-digit whole numbers as follows:

100-199 Assets and other debits.
200-299 Liabilities and other credits.
300-399 Plant accounts.
400-432, 434-435 Income accounts.
433, 436-439 Retained earnings accounts.
440-459 Revenue accounts.
500-599 Production, transmission and distribution expenses.
900-949 Customer accounts, customer service and informational, sales, and general and administrative expenses.

B. In certain instances, numbers have been skipped in order to allow for possible later expansion or to permit better coordination with the numbering system for other utility departments.

C. The numbers prefixed to account titles are to be considered as parts of the titles. Each utility, however, may adopt for its own purposes a different system of account numbers (see also general instruction 2D) provided that the numbers herein prescribed shall appear in the descriptive headings of the ledger accounts and in the various sources of original entry; however, if a utility uses a different group of account numbers and it is not practicable to show the prescribed account numbers in the various sources of original entry, such reference to the prescribed account numbers may be omitted from the various sources of original entry. Moreover, each utility using different account numbers for its own purposes shall keep readily available a list of such account numbers which it uses and a reconciliation of such account numbers with the account numbers provided herein. It is intended that the utility's records shall be so kept as to permit ready analysis by prescribed accounts (by direct reference to sources of original entry to the extent practicable) and to permit preparation of financial and operating statements directly from such records at the end of each accounting period according to the prescribed accounts.

4. *Accounting Period.*

Each utility shall keep its books on a monthly basis so that for each month all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be so segregated monthly. Each utility shall close its books at the end of each calendar year unless otherwise authorized by the Commission.

5. *Submittal of Questions.*

To maintain uniformity of accounting, utilities shall submit questions of doubtful interpretation to the Commission for consideration and decision.

6. *Item Lists.*

Lists of "items" appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The lists are intended to be representative, but not exhaustive. The appearance of an item in a list warrants the inclusion of the item in the account mentioned only when the text of the account also indicates inclusion inasmuch as the same item frequently appears in more than one list. The proper entry in each instance must be determined by the texts of the accounts.

7. *Extraordinary Items.*

It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments as described in paragraph 7.1 and long-term debt as described in paragraph 17 below. Those items related to the effects of events and transactions which have occurred during the current period and which are of unusual nature and infrequent occurrence shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the forseeable future. (In determining significance, items should be considered individually and not in the aggregate. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate. To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434 and 435.)

7.1 *Prior period items.*

A. Items of profit and loss related to the following shall be accounted for as prior period adjustments and excluded from the determination of net income for the current year:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

B. All other items of profit and loss recognized during the year shall be included in the determination of net income for that year.

8. *Unaudited Items (Major Utility).*

Whenever a financial statement is required by the Commission, if it is known that a transaction has occurred which affects the accounts but the amount involved in the transaction and its effect upon the accounts cannot be determined with absolute accuracy, the amount shall be estimated and such estimated amount included in the proper accounts. The utility is not required to anticipate minor items which would not appreciably affect the accounts.

9. *Distribution of Pay and Expenses of Employees.*

The charges to electric plant, operating expense and other accounts for services and expenses of employees engaged in activities chargeable to various accounts, such as construction, maintenance, and operations, shall be based upon the actual time engaged in the respective classes of work, or in case that method is impracticable, upon the basis of a study of the time actually engaged during a representative period.

10. *Payroll Distribution.*

Underlying accounting data shall be maintained so that the distribution of the cost of labor charged direct to the various accounts will be readily available. Such underlying data shall permit a reasonably accurate distribution to be made of the cost of labor charged initially to clearing accounts so that the total labor cost may be classified among construction, cost of removal, electric operating functions (steam generation, nuclear generation, hydraulic generation, transmission, distribution, etc.) and nonutility operations.

11. *Accounting to be on Accrual Basis.*

A. The utility is required to keep its accounts on the accrual basis. This requires the inclusion in its accounts of all known transactions of appreciable amount which affect the accounts. If bills covering such transactions have not been received or rendered, the amounts shall be estimated and appropriate adjustments made when the bills are received.

B. When payments are made in advance for items such as insurance, rents, taxes or interest the amount applicable to future periods shall be charged to account 165, Prepayments, and spread over the periods to which applicable by credits to account 165.

and charges to the accounts appropriate for the expenditure.

12. *Records for Each Plant (Major Utility).*

Separate records shall be maintained by electric plant accounts of the book cost of each plant owned, including additions by the utility to plant leased from others, and of the cost of operating and maintaining each plant owned or operated. The term "plant" as here used means each generating station and each transmission line or appropriate group of transmission lines.

13. *Accounting for Other Departments.*

If the utility also operates other utility departments, such as gas, water, etc., it shall keep such accounts for the other departments as may be prescribed by proper authority and in the absence of prescribed accounts, it shall keep such accounts as are proper or necessary to reflect the results of operating each such department. It is not intended that proprietary and similar accounts which apply to the utility as a whole shall be departmentalized.

14. *Transactions With Associated Companies (Major Utility).*

Each utility shall keep its accounts and records so as to be able to furnish accurately and expeditiously statements of all transactions with associated companies. The statements may be required to show the general nature of the transactions, the amounts involved therein and the amounts included in each account prescribed herein with respect to such transactions. Transactions with associated companies shall be recorded in the appropriate accounts for transactions of the same nature. Nothing herein contained, however, shall be construed as restraining the utility from subdividing accounts for the purpose of recording separately transactions with associated companies.

15. *Contingent Assets and Liabilities (Major Utility).*

Contingent assets represent a possible source of value to the utility contingent upon the fulfillment of conditions regarded as uncertain. Contingent liabilities include items which may under certain conditions become obligations of the utility but which are neither direct nor assumed liabilities at the date of the balance sheet. The utility shall be prepared to give a complete statement of significant contingent assets and liabilities (including cumulative dividends on preference stock) in its annual report and at such other times as may be requested by the Commission.

16. *Separate Accounts or Records for Each Licensed Project.*

The accounts or records of each licensee shall be so kept as to show for each project (including pumped storage) under license;

(a) The actual legitimate original cost of the project, including the original cost (or fair value, as determined under section 23 of the Federal Power Act) of the original project, the original cost of additions thereto and betterments thereof and credits for property retired from service, as determined under the Commission's regulations;

(b) The charges for operation and maintenance of the project property directly assignable to the project;

(c) The credits and debits to the depreciation and amortization accounts, and the balances in such accounts;

(d) The credits and debits to operating revenue, income, and retained earnings accounts that can be identified with and directly assigned to the project.

NOTE: The purpose of this instruction is to insure that accounts or records are currently maintained by each licensee from which reports may be made to the Commission for use in determining the net investment in each licensed project. The instruction covers only the debit and credit items appearing in the licensee's accounts which may be identified with and assigned directly to any licensed project. In the determination of the net investment as defined in section 3 of the Federal Power Act, allocations of items affecting the net investment may be required where direct assignment is not practicable.

17. *Long-Term Debt: Premium, Discount and Expense, and Gain or Loss on Reacquisition.*

A. *Premium, discount and expense.* A separate premium, discount and expense account shall be maintained for each class and series of long-term debt (including receivers' certificates) issued or assumed by the utility. The premium will be recorded in account 225, Unamortized Premium on Long-Term Debt, the discount will be recorded in account 226, Unamortized Discount on Long-Term Debt—Debit, and the expense of issuance shall be recorded in account 181, Unamortized Debt Expense.

The premium, discount and expense shall be amortized over the life of the respective issues under a plan which will distribute the amounts equitably over the life of the securities. The amortization shall be on a monthly basis, and amounts thereof relating to discount and expense shall be charged to account 428, Amortization of Debt Discount and Expense. The amounts relating to premium shall be credited to account 429, Amortization of Premium on Debt—Credit.

B. *Reacquisition, without refunding.* When long-term debt is reacquired or redeemed without being converted into another form of long-term debt and when the transaction is not in connection with a refunding operation (primarily redemptions for sinking fund purposes), the difference between the amount paid upon reacquisition and the face value; plus any unamortized premium less any related unamortized debt expense and reacquisition costs; or less any unamortized discount, related debt expense and reacquisition costs applicable to the debt redeemed, retired and canceled, shall be included in account 189, Unamortized Loss on Reacquired Debt, or account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility shall amortize the recorded amounts equally on a monthly basis over the remaining life of the respective security issues (old original debt). The amounts so amortized shall be charged to account 428.1, Amortization of Loss on Reacquired Debt, or credited to account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.

C. *Reacquisition, with refunding.* When the redemption of one issue or series of bonds or other long-term obligations is financed by another issue or series before the maturity date of the first issue, the difference between the amount paid upon refunding and the face value; plus any unamortized premium less related debt expense or less any unamortized discount and related debt expense, applicable to the debt refunded, shall be included in account 189, Unamortized Loss on Reacquired Debt, or account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility may elect to account for such amounts as follows:

(1) Write them off immediately when the amounts are insignificant.

(2) Amortize them by equal monthly amounts over the remainder of the original life of the issue retired, or

(3) Amortize them by equal monthly amounts over the life of the new issue.

Once an election is made, it shall be applied on a consistent basis. The amounts in (1), (2) or (3) above shall be charged to account 428.1, Amortization of Loss on Reacquired Debt, or credited to account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.

D. Under methods (2) and (3) above, the increase or reduction in current income taxes resulting from the reacquisition should be apportioned over the remainder of the original life of the issue retired or over the life of the new issue, as appropriate, as directed more specifically in paragraphs E and F below.

E. When the utility recognizes the loss in the year of reacquisition as a tax deduction, account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, shall be debited and account 283, Accumulated Deferred Income Taxes—Other, shall be credited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of account 283.

F. When the utility chooses to recognize the gain in the year of reacquisition as a taxable gain, account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be credited and account 190, Accumulated Deferred Income Taxes, shall be debited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of account 190.

G. When the utility chooses to use the optional privilege of deferring the tax on the gain attributable to the reacquisition of debt by reducing the depreciable basis of utility property for tax purposes, pursuant to section 108 of the Internal Revenue Code, the related tax effects shall be deferred as the income is recognized for accounting purposes, and the deferred amounts shall be amortized over the life of the associated property on a vintage year basis. Account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, shall be debited, and account 282, Accumulated Deferred Income Taxes—Other Property shall be credited with an amount equal to the estimated income tax effect applicable to the portion of the income, attributable to reacquired debt, recognized for accounting purposes during the period. Account 282 shall be debited and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be credited with an amount equal to the estimated income tax effects, during the life of the property, attributable to the reduction in the depreciable basis for tax purposes.

H. The tax effects relating to gain or loss shall be allocated as above to utility operations except in cases where a portion of the debt reacquired is directly applicable to nonutility operations. In that event, the related portion of the tax effects shall be allocated to nonutility operations. Where it can be established that reacquired debt is generally applicable to both utility and nonutility operations, the tax effects shall be allocated between utility and nonutility operations based on the ratio of net investment in utility plant to net investment in nonutility plant.

I. Premium, discount, or expense on debt shall not be included as an element in the cost of construction or acquisition of property (tangible or intangible), except under the provisions of account 432, Allowance for Borrowed Funds Used During Construction—Credit.

J. *Alternate method.* Where a regulatory authority or a group of regulatory authorities having prime rate jurisdiction over the utility specifically disallows the rate principle of amortizing gains or losses on reacquisition of long-term debt without refunding, and does not apply the gain or loss to reduce interest charges in computing the allowed rate of return for rate purposes, then the following alternate method may be used to account for gains or losses relating to reacquisition of long-term debt, with or without refunding.

(1) The difference between the amount paid upon reacquisition of any long-term debt and the face value, adjusted for unamortized discount, expenses or premium, as the case may be, applicable to the debt redeemed shall be recognized currently in income and recorded in account 421, Miscellaneous Nonoperating Income, or account 426.5, Other Deductions.

(2) When this alternate method of accounting is used, the utility shall include a footnote to each financial statement, prepared for public use, explaining why this method is being used along with the treatment given for ratemaking purposes.

18. *Comprehensive Interperiod Income Tax Allocation.*

A. Where there are timing differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income, the income tax effects of such transactions are to be recognized in the periods in which the differences between book accounting income and taxable income arise and in the periods in which the differences reverse using the deferred tax method. In general, comprehensive interperiod tax allocation should be followed whenever transactions enter into the determination of pretax accounting income for the period even though some transactions may affect the determination of taxes payable in a different period, as further qualified below.

B. Utilities are not required to utilize comprehensive interperiod income tax allocation until the deferred income taxes are included as an expense in the rate level by the regulatory authority having rate jurisdiction over the utility. Where comprehensive interperiod tax allocation accounting is not practiced the utility shall include as a note to each financial statement, prepared for public use, a footnote explanation setting forth the utility's accounting policies with respect to interperiod tax allocation and describing the treatment for ratemaking purposes of the tax timing differences by regulatory authorities having rate jurisdiction.

C. Should the utility be subject to more than one agency having rate jurisdiction, its accounts shall appropriately reflect the ratemaking treatment (deferral or flow through) of each jurisdiction.

D. Once comprehensive interperiod tax allocation has been initiated either in whole or in part it shall be practiced on a consistent basis and shall not be changed or discontinued without prior Commission approval.

E. Tax effects deferred currently will be recorded as deferred debits or deferred credits in accounts 190, Accumulated Deferred Income Taxes, 281, Accumulated Deferred Income Taxes—Accelerated Amortization Property, 282, Accumulated Deferred Income Taxes—Other Property, and 283, Accumulated Deferred Income Taxes—Other, as appropriate. The resulting amounts recorded in these accounts shall be disposed of as prescribed in this system of accounts or as otherwise authorized by the Commission.

19. *Criteria for classifying leases.*

A. If at its inception a lease meets one or more of the following criteria, the lease shall be classified as a capital lease. Otherwise, it shall be classified as an operating lease.

(1) The lease transfers ownership of the property to the lessee by the end of the lease term

(2) The lease contains a bargain purchase option.

(3) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(4) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excees of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. The lessee utility shall compute the present value of the minimum lease payments using its incremental borrowing rate, unless (A) it is practicable for the utility to learn the implicit rate computed by the lessor, and (B) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

B. If at any time the lessee and lessor agree to change the provisions of the lease, other than by renewing the lease or extending its term, in a manner that would have resulted in a different classification of the lease under the criteria in paragraph A had the changed terms been in effect at the inception of the lease, the revised agreement shall be considered as a new agreement over its term, and the criteria in paragraph A shall be applied for purposes of classifying the new lease. Likewise, any action that extends the lease beyond the expiration of the existing lease term, such as the exercise of a lease renewal option other than those already included in the lease term, shall be considered as a new agreement and shall be classified according to the above provisions. Changes in estimates (for example, changes in estimates of the economic life or of the residual value of the leased property) or changes in circumstances (for example, default by the lessee) shall not give rise to a new classification of a lease for accounting purposes.

20. *Accounting for leases.*

A. All leases shall be classified as either capital or operating leases. The accounting for capitalized leases is effective January 1, 1984, except for the retroactive classification of certain leases which, in accordance with FASB No. 71, will not be required to be capitalized until after a three year transition period. For the purpose of reporting to the FERC, the transition period shall be deemed to end December 31, 1986.

B. The utility shall record a capital lease as an asset in account 101.1, Property under Capital Leases, Account 120.6, Nuclear Fuel under Capital Leases, or account 121, Nonutility Property, as appropriate, and an obligation in account 227, Obligations under Capital Leases—Noncurrent, or account 243, Obligations under Capital Leases—Current, at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

C. Rental payments on all leases shall be charged to rent expense, fuel expense, construction work in progress, or other appropriate accounts as they become payable.

D. For a capital lease, for each period during the lease term, the amounts recorded for the asset and obligation shall be reduced by an amount equal to the portion of each lease payment that would have been allocated to the reduction of the obligation, if the payment had been treated as a payment on an installment obligation (liability) and allocated between interest expense and a reduction of the obligation so as to produce a constant periodic rate of interest on the remaining balance.

Electric Plant Instructions

1. *Classification of electric plant at effective date of system of accounts (Major utilities).*

A. The electric plant accounts provided herein are the same as those contained in the prior system of accounts except for inclusion of accounts for nuclear production plant and some changes in classification in the general equipment accounts. Except for these changes, the balances in the various plant accounts, as determined under the prior system of accounts, should be carried forward. Any remaining balance of plant which has not yet been classified, pursuant to the requirements of the prior system, shall be classified in accordance with the following instructions.

B. The cost to the utility of its unclassified plant shall be ascertained by analysis of the utility's records. Adjustments shall not be made to record in utility plant accounts amounts previously charged to operating expenses or to income deductions in accordance with the uniform system of accounts in effect at the time or in accordance with the discretion of management as exercised under a uniform system of accounts, or under accounting practices previously followed.

C. The detailed electric plant accounts (301 to 399, inclusive) shall be stated on the basis of cost to the utility of plant constructed by it and the original cost, estimated if not known, of plant acquired as an operating unit or system. The difference between the original cost, as above, and the cost to the utility of electric plant after giving effect to any accumulated provision for depreciation or amortization shall be recorded in account 114, Electric Plant Acquisition Adjustments. The original cost of electric plant shall be determined by analysis of the utility's records or those of the predecessor or vendor companies with respect to electric plant previously acquired as operating units or systems and the difference between the original cost so determined, less accumulated provisions for depreciation and amortization and the cost to the utility with necessary adjustments for retirements from the date of acquisition, shall be entered in account 114, Electric Plant Acquisition Adjustments. Any difference between the cost of electric plant and its book cost, when not properly includible in other accounts, shall be recorded in account 116, Other Electric Plant Adjustments.

D. Plant acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* shall be recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases, as appropriate.

2. *Electric Plant To Be Recorded at Cost.*

A. All amounts included in the accounts for electric plant acquired as an operating unit or system, except as otherwise provided in the texts of the intangible plant accounts, shall be stated at the cost incurred by the person who first devoted the property to utility service. All other electric plant shall be included in the accounts at the cost incurred by the utility, except for property acquired by lease which qualifies as capital lease property under General Instruction 19. *Criteria for Classifying Leases,* and is recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases. Where the term "cost" is used in the detailed plant accounts, it shall have the meaning stated in this paragraph.

B. When the consideration given for property is other than cash, the value of such consideration shall be determined on a cash basis (see, however, definition 9). In the entry recording such transition, the actual consideration shall be described with sufficient particularity to identify it. The utility shall be prepared to furnish the Commission the particulars of its determination of the cash value of the consideration if other than cash.

C. When property is purchased under a plan involving deferred payments, no charge shall be made to the electric plant accounts for interest, insurance, or other expenditures occasioned solely by such form of payment.

D. The electric plant accounts shall not include the cost or other value of electric plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of electric plant shall be credited to accounts charged with the cost of such construction. Plant constructed from contributions of cash or its equivalent shall be shown as a reduction to gross plant constructed when assembling cost data in work orders for posting to plant ledgers of accounts. The accumulated gross costs of plant accumulated in the work order shall be recorded as a debit in the plant ledger of accounts along with the related amount of contributions concurrently be recorded as a credit.

3. *Components of construction cost.*

A. For Major utilities, the cost of construction properly includible in the electric plant accounts shall include, where applicable, the direct and overhead cost as listed and defined hereunder:

(1) "Contract work" includes amounts paid for work performed under contract by other companies, firms, or individuals, costs incident to the award of such contracts, and the inspection of such work.

(2) "Labor" includes the pay and expenses of employees of the utility engaged on construction work, and related workmen's compensation insurance, payroll taxes and similar items of expense. It does not include the pay and expenses of employees which are distributed to construction through clearing accounts nor the pay and expenses included in other items hereunder.

(3) "Materials and supplies" includes the purchase price at the point of free delivery plus customs duties, excise taxes, the cost of inspection, loading and transportation, the related stores expenses, and the cost of fabricated materials from the utility's shop. In determining the cost of materials and supplies used for construction, proper allowance shall be made for unused materials and supplies, for materials recovered from temporary structures used in performing the work involved, and for discounts allowed and realized in the purchase of materials and supplies.

NOTE: The cost of individual items of equipment of small value (for example, $500 or less) or of short life, including small portable tools and implements, shall not be charged to utility plant accounts unless the correctness of the accounting therefor is verified by current inventories. The cost shall be charged to the appropriate operating expense or clearing accounts, according to the use of such items, or, if such items are consumed directly in construction work, the cost shall be included as part of the cost of the construction

(4) "Transportation" includes the cost of transporting employees, materials and supplies, tools, purchased equipment, and other work equipment (when not under own power) to and from points of construction. It includes amounts paid to others as well as the cost of operating the utility's own transportation equipment. (See item 5 following.)

(5) "Special machine service" includes the cost of labor (optional), materials and supplies, depreciation, and other expenses incurred in the maintenance, operation and use of special machines, such as steam shovels, pile drivers, derricks, ditchers, scrapers, material unloaders, and other labor saving machines; also expenditures for rental, maintenance and operation of machines of others. It does not include the cost of small tools and other individual items of small value or short life which are included in the cost of materials and supplies. (See item 3, above.) When a particular construction job requires the use for an extended period of time of special machines, transportation or other equipment, the net book cost thereof, less the appraised or salvage value at time of release from the job, shall be included in the cost of construction.

(6) "Shop service" includes the proportion of the expense of the utility's shop department assignable to construction work except that the cost of fabricated materials from the utility's shop shall be included in "materials and supplies."

(7) "Protection" includes the cost of protecting the utility's property from fire or other casualties and the cost of preventing damages to others, or to the property of others, including payments for discovery or extinguishment of fires, cost of apprehending and prosecuting incendiaries, witness fees in relation thereto, amounts paid to municipalities and others for fire protection, and other analogous items of expenditures in connection with construction work.

(8) "Injuries and damages" includes expenditures or losses in connection with construction work on account o injuries to persons and damages to th property of others; also the cost of investigation of and defense against actions for such injuries and damages Insurance recovered or recoverable on account of compensation paid for injuries to persons incident to construction shall be credited to the account or accounts to which such compensation is charged Insurance recovered or recoverable on account of property damages incident to construction shall be credited to the account or accounts charged with the cost of the damages.

(9) "Privileges and permits" includes payments for and expenses incurred in securing temporary privileges, permits or rights in connection with construction work, such as for the use of private or public property, streets, or highways, but it does not include rents, or amounts chargeable as franchises and consents for which see account 302, Franchises and Consents.

(10) "Rents" includes amounts paid for the use of construction quarters and office space occupied by construction forces and amounts properly includible in construction costs for such facilities jointly used.

(11) "Engineering and supervision" includes the portion of the pay and expenses of engineers, surveyors, draftsmen, inspectors, superintendents and their assistants applicable to construction work.

(12) "General administration capitalized" includes the portion of the pay and expenses of the general officers and administrative and general expenses applicable to construction work.

(13) "Engineering services" includes amounts paid to other companies, firms, or individuals engaged by the utility to plan, design, prepare estimates, supervise, inspect, or give general advice and assistance in connection with construction work.

(14) "Insurance" includes premiums paid or amounts provided or reserved as self-insurance for the protection against loss and damages in connection with construction, by fire or other casualty injuries to or death of persons other than employees, damages to property of others, defalcation of employees and agents, and the nonper-

formance of contractual obligations of others. It does not include workmen's compensation or similar insurance on employees included as "labor" in item 2, above.

(15) "Law expenditures" includes the general law expenditures incurred in connection with construction and the court and legal costs directly related thereto, other than law expenses included in protection, item 7, and in injuries and damages, item 8.

(16) "Taxes" includes taxes on physical property (including land) during the period of construction and other taxes properly includible in construction costs before the facilities become available for service.

(17) "Allowance for funds used during construction" (Major and Nonmajor Utilities) includes the net cost for the period of construction of borrowed funds used for construction purposes and a reasonable rate on other funds when so used, not to exceed, without prior approval of the Commission, allowances computed in accordance with the formula prescribed in paragraph (a) of this subparagraph. No allowance for funds used during construction charges shall be included in these accounts upon expenditures for construction projects which have been abandoned.

(a) The formula and elements for the computation of the allowance for funds used during construction shall be:

$$A_b = s(S/W) + d(D/D+P+C)(1-S/W)$$
$$A_e = [1-S/W][p(P/D+P+C) + c(C/D+P+C)]$$

A_b = Gross allowance for borrowed funds used during construction rate.
A_e = Allowance for other funds used during construction rate.
S = Average short-term debt.
s = Short term debt interest rate.
D = Long-term debt.
d = Long-term debt interest rate.
P = Preferred stock.
p = Preferred stock cost rate.
C = Common equity.
c = Common equity cost rate.
W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication.

(b) The rates shall be determined annually. The balances for long-term debt, preferred stock and common equity shall be the actual book balances as of the end of the prior year. The cost rates for long-term debt and preferred stock shall be the weighted average cost determined in the manner indicated in § 35.13 of the Commission's Regulations Under the Federal Power Act. The cost rate for common equity shall be the rate granted common equity in the last rate proceeding before the ratemaking body having primary rate jurisdictions. If such cost rate is not available, the average rate actually earned during the preceding three years shall be used. The short-term debt balances and related cost and the average balance for construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication shall be estimated for the current year with appropriate adjustments as actual data becomes available.

NOTE: When a part only of a plant or project is placed in operation or is completed and ready for service but the construction work as a whole is incomplete, that part of the cost of the property placed in operation or ready for service, shall be treated as "Electric Plant in Service" and allowance for funds used during construction thereon as a charge to construction shall cease. Allowance for funds used during construction on that part of the cost of the plant which is incomplete may be continued as a charge to construction until such time as it is placed in operation or is ready for service, except as limited in item 17, above.

(18) "Earnings and expenses during construction." The earnings and expenses during construction shall constitute a component of construction costs.

(a) The earnings shall include revenues received or earned for power produced by generating plants during the construction period and sold or used by the utility. Where such power is sold to an independent purchaser before intermingling with power generated by other plants, the credit shall consist of the selling price of the energy. Where the power generated by a plant under construction is delivered to the utility's electric system for distribution and sale, or is delivered to an associated company, or is delivered to and used by the utility for purposes other than distribution and sale (for manufacturing or industrial use, for example), the credit shall be the fair value of the energy so delivered. The revenues shall also include rentals for lands, buildings etc., and miscellaneous receipts not properly includible in other accounts.

(b) The expenses shall consist of the cost of operating the power plant, and other costs incident to the production and delivery of the power for which construction is credited under paragraph (a), above, including the cost of repairs and other expenses of operating and maintaining lands, buildings, and other property, and other miscellaneous and like expenses not properly includible in other accounts.

(19) "Training costs" (Major and Nonmajor Utilities). When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature, or are new to the company's operations, these costs may be capitalized as a component of construction cost. Once plant is placed in service, the capitalization of training costs shall cease and subsequent training costs shall be expensed. (See Operating Expense Instruction 4.)

(20) "Studies" includes the costs of studies such as nuclear operational, safety, or seismic studies or environmental studies mandated by regulatory bodies relative to plant under construction. Studies relative to facilities in service shall be charged to account 183, Preliminary Survey and Investigation Charges.

B. For Nonmajor utilities, the cost of construction of property chargeable to the electric plant accounts shall include, where applicable, the cost of labor; materials and supplies; transportation; work done by others for the utility; injuries and damages incurred in construction work; privileges and permits; special machine service; allowance for funds used during construction, not to exceed without prior approval of the Commission, amounts computed in accordance with the formula prescribed in paragraph (a) of paragraph (17) of this Instruction; training costs; and such portion of general engineering, administrative salaries and expenses, insurance, taxes, and other analogous items as may be properly includable in construction costs. (See Operating Expense Instruction 4.) The rates and balances of short and long-term debt, preferred stock, common equity and construction work in progress shall be determined as prescribed in paragraph (b) of paragraph (17) of this Instruction.

4. *Overhead Construction Costs.*

A. All overhead construction costs, such as engineering, supervision, general office salaries and expenses, construction engineering and supervision by others than the accounting utility, law expenses, insurance, injuries and damages, relief and pensions, taxes and interest, shall be charged to particular jobs or units on the basis of the amounts of such overheads reasonably applicable thereto, to the end that each job or unit shall bear its equitable proportion of such costs and that the entire cost of the unit, both direct and overhead, shall be deducted from the plant accounts at the time the property is retired.

B. As far as practicable, the determination of pay roll charges includible in construction overheads shall be based on time card distributions thereof. Where this procedure is impractical, special studies shall be made periodically of the time of supervisory employees devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized. The addition to direct construction costs of arbitrary percentages or amounts to cover assumed overhead costs is not permitted.

C. For Major utilities, the records supporting the entries for overhead construction costs shall be so kept as to show the total amount of each overhead for each year, the nature and amount of each overhead expenditure charged to each construction work order and to each electric plant account, and the bases of distribution of such costs.

5. *Electric Plant Purchased or Sold.*

A. When electric plant constituting an operating unit or system is acquired by purchase, merger, consolidation, liquidation, or otherwise, after the effective date of this system of accounts, the costs of acquisition, including expenses incidental thereto properly includible in electric plant, shall be charged to account 102, Electric Plant Purchased or Sold.

B. The accounting for the acquisition shall then be completed as follows:

(1) The original cost of plant, estimated if not known, shall be credited to account 102, Electric Plant Purchased or Sold, and concurrently charged to the appropriate electric plant in service accounts and to account 104, Electric Plant Leased to Others, account 105, Electric Plant Held for Future Use, and account 107, Construction Work in Progress—Electric, as appropriate.

(2) The depreciation and amortization applicable to the original cost of the properties purchased shall be charged to account 102, Electric Plant Purchased or Sold, and concurrently credited to the appropriate account for accumulated provision for depreciation or amortization.

(3) The cost to the utility of any property includible in account 121, Nonutility Property, shall be transferred thereto.

(4) The amount remaining in account 102, Electric Plant Purchased or Sold, shall then be closed to account 114, Electric Plant Acquisition Adjustments.

C. If property acquired in the purchase of an operating unit or system is in such physical condition when acquired that it is necessary substantially to rehabilitate it in order to bring the property up to the standards of the utility, the cost of such work, except replacements, shall be accounted for as a part of the purchase price of the property.

D. When any property acquired as an operating unit or system includes duplicate or other plant which will be retired by the accounting utility in the reconstruction of the acquired property or its consolidation with previously owned property, the proposed accounting for such property shall be presented to the Commission.

E. In connection with the acquisition of electric plant constituting an operating unit or system, the utility shall procure, if possible, all existing records relating to the property acquired, or certified copies thereof, and shall preserve such records in conformity with regulations or practices governing the preservation of records of its own construction.

F. When electric plant constituting an operating unit or system is sold, conveyed, or transferred to another by sale, merger, consolidation, or otherwise, the book cost of the property sold or transferred to another shall be credited to the appropriate utility plant accounts, including amounts carried in account 114, Electric Plant Acquisition Adjustments. The amounts (estimated if not known) carried with respect thereto in the accounts for accumulated provision for depreciation and amortization and in account 252, Customer Advances for Construction, shall be charged to such accounts and contra entries made to account 102, Electric Plant Purchased or Sold. Unless otherwise ordered by the Commission, the difference, if any, between (1) the net amount of debits and credits and (2) the consideration received for the property (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property. (See account 102, Electric Plant Purchased or Sold.)

NOTE: In cases where existing utilities merge or consolidate because of financial or operating reasons or statutory requirements rather than as a means of transferring title of purchased properties to a new owner, the accounts of the constituent utilities, with the approval of the Commission, may be combined. In the event original cost has not been determined, the resulting utility shall proceed to determine such cost as outlined herein.

6. *Expenditures on Leased Property.*

A. The cost of substantial initial improvements (including repairs, rearrangements, additions, and betterments) made in the course of preparing for utility service property leased for a period of more than one year, and the cost of subsequent substantial additions, replacements, or betterments to such property, shall be charged to the electric plant account appropriate for the class of property leased. If the service life of the improvements is terminable by action of the lease, the cost, less net salvage, of the improvements shall be spread over the life of the lease by charges to account 404, Amortization of Limited-Term Electric Plant. However, if the service life is not terminated by action of the lease but by depreciation proper, the cost of the improvements, less net salvage, shall be accounted for as depreciable plant. The provisions of this paragraph are applicable to property leased under either capital leases or operating leases.

B. If improvements made to property leased for a period of more than one year are of relatively minor cost, or if the lease is for a period of not more than one year, the cost of the improvements shall be charged to the account in which the rent is included, either directly or by amortization thereof.

7. *Land and Land Rights.*

A. The accounts for land and land rights shall include the cost of land owned in fee by the utility and rights. Interests, and privileges held by the utility in land owned by others, such as leaseholds, easements, water and water power rights, diversion rights, submersion rights, rights-of-way, and other like interests in land. Do not include in the accounts for land and land rights and rights-of-way costs incurred in connection with first clearing and grading of land and rights-of-way and the damage costs associated with the construction and installation of plant. Such costs shall be included in the appropriate plant accounts directly benefited.

B. Where special assessments for public improvements provide for deferred payments, the full amount of the assessments shall be charged to the appropriate land account and the unpaid balance shall be carried in an appropriate liability account. Interest on unpaid balances shall be charged to the appropriate interest account. If any part of the cost of public improvements is included in the general tax levy, the amount thereof shall be charged to the appropriate tax account.

C. The net profit from the sale of timber, cord wood, sand, gravel, other resources or other property acquired with the rights-of-way or other lands shall be credited to the appropriate plant account to which related. Where land is held for a considerable period of time and timber and other natural resources on the land at the time of purchase increases in value, the net profit (after giving effect to the cost of the natural resources) from the sales of timber or its products or other natural resources shall be credited to the appropriate utility operating income account when such land has been recorded in account 105, Electric Plant Held for Future Use or classified as plant in service, otherwise to account 421, Miscellaneous Nonoperating Income.

D. Separate entries shall be made for the acquisition, transfer, or retirement of each parcel of land, and each land right (except rights of way for distribution lines), or water right, having a life of more than one year. A record shall be maintained showing the nature of ownership, full legal description, area, map reference, purpose for which used, city, county, and tax district on which situated, from whom purchased or to whom sold, payment given or received, other costs, contract date and number, date of recording of deed, and book and page of record. Entries transferring or retiring land or land rights shall refer to the original entry recording its acquisition.

E. Any difference between the amount received from the sale of land or land rights, less agents' commissions and other costs incident to the sale, and the book cost of such land or rights, shall be included in account 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant when such property has been recorded in account 105, Electric Plant Held for Future Use, otherwise to account 421.1, Gain on Disposition of Property or 421.2, Loss on Disposition of Property, as appropriate, unless a reserve therefor has been authorized and provided. Appropriate adjustments of the accounts shall be made with respect to any structures or improvements located on land sold.

F. The cost of buildings and other improvements (other than public improvements) shall not be included in the land accounts. If at the time of acquisition of an interest in land such interest extends to buildings or other improvements (other than public improvements) which are then devoted to utility operations, the land and improvements shall be separately appraised and the cost allocated to land and buildings or improvements on the basis of the appraisals. If the improvements are removed or wrecked without being used in operations, the cost of removing or wrecking shall be charged and the salvage credited to the account in which the cost of the land is recorded.

G. When the purchase of land for electric operations requires the purchase of more land than needed for such purposes, the charge to the specific land account shall be based upon the cost of the land purchased, less the fair market value of that portion of the land which is not to be used in utility operations. The portion of the cost measured by the fair market value of the land not to be used shall be included in account 105, Electric Plant Held for Future Use, or account 121, Nonutility Property, as appropriate.

H. Provisions shall be made for amortizing amounts carried in the accounts for limited-term interests in land so as to apportion equitably the cost of each interest over the life thereof. (For Major utilities, see account 111, Accumulated Provision for Amortization of Electric Plant Utility, and account 404, Amortization of Limited-Term Electric Plant. For Nonmajor utilities, see account 404.)

I. The items of cost to be included in the accounts for land and land rights are as follows:

1. Bulkheads, buried, not requiring maintenance or replacement.
2. Cost, first, of acquisition including mortgages and other liens assumed (but not subsequent interest thereon).
3. [Reserved]
4. Condemnation proceedings, including court and counsel costs.
5. Consents and abutting damages, payment for.
6. Conveyancers' and notaries' fees.
7. Fees, commissions, and salaries to brokers, agents and others in connection with the acquisition of the land or land rights.
8. [Reserved]
9. Leases, cost of voiding upon purchase to secure possession of land.
10. Removing, relocating, or reconstructing, property of others, such as buildings, highways, railroads, bridges, cemeteries, churches, telephone and power lines, etc., in order to acquire quiet possession.
11. Retaining walls unless identified with structures.
12. Special assessments levied by public authorities for public improvements on the basis of benefits for new roads, new bridges, new sewers, new curbing, new pavements, and other public improvements, but not taxes levied to provide for the maintenance of such improvements.
13. Surveys in connection with the acquisition, but not amounts paid for topographical surveys and maps where such costs are attributable to structures or plant equipment erected or to be erected or installed on such land.
14. Taxes assumed, accrued to date of transfer of title.
15. Title, examining, clearing, insuring and registering in connection with the acquisition and defending against claims relating to the period prior to the acquisition.
16. Appraisals prior to closing title.
17. Cost of dealing with distributees or legatees residing outside of the state or county, such as recording power of attorney, recording will or exemplification of will, recording satisfaction of state tax.
18. Filing satisfaction of mortgage.
19. Documentary stamps.
20. Photographs of property at acquisition.
21. Fees and expenses incurred in the acquisition of water rights and grants.
22. Cost of fill to extend bulkhead line over land under water, where riparian rights are held, which is not occasioned by the erection of a structure.
23. Sidewalks and curbs constructed by the utility on public property.
24. Labor and expenses in connection with securing rights of way, where performed by company employees and company agents.

8. *Structures and Improvements.*

A. The accounts for structures and improvements shall include the cost of all buildings and facilities to house, support, or safeguard property or persons, including all fixtures permanently attached to and made a part of buildings and which cannot be removed therefrom without cutting into the walls, ceilings, or floors, or without in some way impairing the buildings, and improvements of a permanent character on or to land. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

B. The cost of specially provided foundations not intended to outlast the machinery or apparatus for which provided, and the cost of angle irons, castings, etc., installed at the base of an item of equipment, shall be charged to the same account as the cost of the machinery, apparatus, or equipment.

C. Minor buildings and structures, such as valve towers, patrolmen's towers, telephone stations, fish and wildlife, and recreation facilities, etc., which are used directly in connection with or form a part of a reservoir, dam, waterway, etc., shall be considered a part of the facility in connection with which constructed or operated and the cost thereof accounted for accordingly.

D. Where furnaces and boilers are used primarily for furnishing steam for some particular department and only incidentally for furnishing steam for heating a building and operating the equipment therein, the entire cost of such furnaces and boilers shall be charged to the appropriate plant account, and no part to the building account.

E. Where the structure of a dam forms also the foundation of the power plant building, such foundation shall be considered a part of the dam.

F. The cost of disposing of materials excavated in connection with construction of structures shall be considered as a part of the cost of such work, except as follows: (a) When such material is used for filling, the cost of loading, hauling, and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used; (b) when such material is sold, the net amount realized from such sales shall be credited to the work in connection with which the removal occurs. If the amount realized from the sale of excavated materials exceeds the removal costs and the costs in connection with the sale, the excess shall be credited to the land account in which the site is carried.

G. Lighting or other fixtures temporarily attached to buildings for purposes of display or demonstration shall not be included in the cost of the building but in the appropriate equipment account.

H. The items of cost to be included in the accounts for structures and improvements are as follows:

1. Architects' plans and specifications including supervision.
2. Ash pits (when located within the building). (Major Utilities)
3. Athletic field structures and improvements.
4. Boilers, furnaces, piping, wiring, fixtures, and machinery for heating, lighting, signaling, ventilating, and air-conditioning systems, plumbing, vacuum cleaning systems, incinerator and smoke pipe, flues, etc.
5. Bulkheads, including dredging, riprap fill, piling, decking, concrete, fenders, etc., when exposed and subject to maintenance and replacement.
6. Chimneys (Major Utilities).
7. Coal bins and bunkers.
8. Commissions and fees to brokers, agents, architects, and others.
9. Conduit (not to be removed) with its contents.
10. Damages to abutting property during construction.
11. Docks (Major Utilities).
12. Door checks and door stops (Major Utilities).
13. Drainage and sewerage systems.
14. Elevators, cranes, hoists, etc., and the machinery for operating them.
15. Excavation, including shoring, bracing, bridging, refill and disposal of excess excavated material, cofferdams around foundation, pumping water from cofferdams during construction, and test borings.
16. Fences and fence curbs (not including protective fences isolating items of equipment, which shall be charged to the appropriate equipment account).
17. Fire protection systems when forming a part of a structure.
18. Flagpole (Major Utilities).
19. Floor covering (permanently attached) (Major Utilities).
20. Foundations and piers for machinery, constructed as a permanent part of a building or other item listed herein.
21. Grading and clearing when directly occasioned by the building of a structure.
22. Intrasite communication system, poles, pole fixtures, wires, and cables.
23. Landscaping, lawns, shrubbery, etc.
24. Leases, voiding upon purchase to secure possession of structures.
25. Leased property, expenditures on.

26. Lighting fixtures and outside lighting system.

27. Mailchutes when part of a building (Major Utilities).

28. Marquee, permanently attached to building (Major Utilities).

29. Painting, first cost.

30. Permanent paving, concrete, brick, flagstone, asphalt, etc., within the property lines.

31. Partitions, including movable (Major Utilities).

32. Permits and privileges.

33. Platforms, railings, and gratings when constructed as a part of a structure.

34. Power boards for services to a building (Major Utilities).

35. Refrigerating systems for general use (Major Utilities).

36. Retaining walls except when identified with land.

37. Roadways, railroads, bridges, and trestles intrasite except railroads provided for in equipment accounts.

38. Roofs (Major Utilities).

39. Scales, connected to and forming a part of a structure (Major Utilities).

40. Screens (Major Utilities).

41. Sewer systems, for general use (Major Utilities).

42. Sidewalks, culverts, curbs and streets constructed by the utility on its property (Major Utilities).

43. Sprinkling systems (Major Utilities).

44. Sump pumps and pits (Major Utilities).

45. Stacks—brick, steel, or concrete, when set on foundation forming part of general foundation and steelwork of a building.

46. Steel inspection during construction (Major Utilities).

47. Storage facilities constituting a part of a building.

48. Storm doors and windows (Major Utilities).

49. Subways, areaways, and tunnels, directly connected to and forming part of a structure.

50. Tanks, constructed as part of a building or as a distinct structural unit.

51. Temporary heating during construction (net cost) (Major Utilities).

52. Temporary water connection during construction (net cost) (Major Utilities).

53. Temporary shanties and other facilities used during construction (net cost)

54. Topographical maps (Major Utilities).

55. Tunnels, intake and discharge, when constructed as part of a structure, including sluice gates, and those constructed to house mains.

56. Vaults constructed as part of a building.

57. Watchmen's sheds and clock systems (net cost when used during construction only) (Major Utilities).

58. Water basins or reservoirs.

59. Water front improvements (Major Utilities).

60. Water meters and supply system for a building or for general company purposes (Major Utilities).

61. Water supply piping, hydrants and wells (Major Utilities).

62. Wharves.

63. Window shades and ventilators (Major Utilities).

64. Yard drainage system (Major Utilities).

65. Yard lighting system (Major Utilities).

66. Yard surfacing, gravel, concrete, or oil. (First cost only.) (Major Utilities)

NOTE: Structures and Improvements accounts shall be credited with the cost of coal bunkers, stacks, foundations, subways, tunnels, etc., the use of which has terminated with the removal of the equipment with which they are associated even though they have not been physically removed.

9. *Equipment.*

A. The cost of equipment chargeable to the electric plant accounts, unless otherwise indicated in the text of an equipment account, includes the net purchase price thereof, sales taxes, investigation and inspection expenses necessary to such purchase, expenses of transportation when borne by the utility, labor employed, materials and supplies consumed, and expenses incurred by the utility in unloading and placing the equipment in readiness to operate. Also include those costs incurred in connection with the first clearing and grading of land and rights-of-way and the damage costs associated with construction and installation of plant.

B. Exclude from equipment accounts hand and other portable tools, which are likely to be lost or stolen or which have relatively small value (for example, $500 or less) or short life, unless the correctness of the accounting therefor as electric plant is verified by current inventories. Special tools acquired and included in the purchase price of equipment shall be included in the appropriate plant account. Portable drills and similar tool equipment when used in connection with the operation and maintenance of a particular plant or department, such as production, transmission, distribution, etc., or in "stores," shall be charged to the plant account appropriate for their use.

C. The equipment accounts shall include angle irons and similar items which are installed at the base of an item of equipment, but piers and foundations which are designed to be as permanent as the buildings which house the equipment, or which are constructed as a part of the building and which cannot be removed without cutting into the walls, ceilings or floors or without in some way impairing the building, shall be included in the building accounts.

D. The equipment accounts shall include the necessary costs of testing or running a plant or parts thereof during an experimental or test period prior to such plant becoming ready for or placed in service. In the case of Nonmajor utilities, the utility shall pay the fee prescribed in Part 381 of this chapter and shall furnish the Commission with full particulars of and justification for any test or experimental run extending beyond a period of 30 days. In the case of Major utilities, the utility shall furnish the Commission with full particulars of and justification for any test or experimental run extending beyond a period of 120 days for nuclear plant, and a period of 90 days for all other plant. Such particulars shall include a detailed operational and downtime log showing days of production, gross kilowatts generated by hourly increments, types, and periods of outages by hours with explanation thereof, beginning with the first date the equipment was either tested or synchronized on the line to the end of the test period.

E. The cost of efficiency or other tests made subsequent to the date equipment becomes available for service shall be charged to the appropriate expense accounts, except that tests to determine whether equipment meets the specifications and requirements as to efficiency, performance, etc., guaranteed by manufacturers, made after operations have commenced and within the period specified in the agreement or contract of purchase may be charged to the appropriate electric plant account.

10. *Additions and Retirements of Electric Plant.*

A. For the purpose of avoiding undue refinement in accounting for additions to and retirements and replacements of electric plant, all property shall be considered as consisting of (1) retirement units and (2) minor items of property. Each utility shall use such list of retirement units as is in use by it at the effective date hereof or as may be prescribed by the Commission, with the option, however, of using smaller units, provided the utility's practice in this respect is consistent.

B. The addition and retirement of retirement units shall be accounted for as follows:

(1) When a retirement unit is added to electric plant, the cost thereof shall be added to the appropriate electric plant account, except that when units are acquired in the acquisition of any electric plant constituting an operating system, they shall be accounted for as provided in electric plant instruction 5.

(2) When a retirement unit is retired from electric plant, with or without replacement, the book cost thereof shall be credited to the electric plant account in which it is included, determined in the manner set forth in paragraph D, below. If the retirement unit is of a depreciable class, the book cost of the unit retired and credited to electric plant shall be charged to the accumulated provision for depreciation applicable to such property. The cost of removal and the salvage shall be charged or credited, as appropriate, to such depreciation account.

C. The addition and retirement of minor items of property shall be accounted for as follows:

(1) When a minor item of property which did not previously exist is added to plant, the cost thereof shall be accounted for in the same manner as for the addition of a retirement unit, as set forth in paragraph B(1), above, if a substantial addition results, otherwise the charge shall be to the appropriate maintenance expense account.

(2) When a minor item of property is retired and not replaced, the book cost thereof shall be credited to the electric plant account in which it is included; and, in the event the minor item is a part of depreciable plant, the account for accumulated provision for depreciation shall be charged with the

book cost and cost of removal and credited with the salvage. If, however, the book cost of the minor item retired and not replaced has been or will be accounted for by its inclusion in the retirement unit of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.

(3) When a minor item of depreciable property is replaced independently of the retirement unit of which it is a part, the cost of replacement shall be charged to the maintenance account appropriate for the item, except that if the replacement effects a substantial betterment (the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity), the excess cost of the replacement over the estimated cost at current prices of replacing without betterment shall be charged to the appropriate electric plant account.

D. The book cost of electric plant retired shall be the amount at which such property is included in the electric plant accounts, including all components of construction costs. The book cost shall be determined from the utility's records and if this cannot be done it shall be estimated. When it is impracticable to determine the book cost of each unit, due to the relatively large number or small cost thereof, an appropriate average book cost of the units, with due allowance for any differences in size and character, shall be used as the book cost of the units retired.

E. The book cost of land retired shall be credited to the appropriate land account. If the land is sold, the difference between the book cost (less any accumulated provision for depreciation or amortization therefore which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be recorded in account 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant when the property has been recorded in account 105, Electric Plant Held for Future Use, otherwise to accounts 421.1, Gain on Disposition of Property or 421.2, Loss on Disposition of Property, as appropriate. If the land is not used in utility service but is retained by the utility, the book cost shall be charged to account 105, Electric Plant Held for Future Use, or account 121, Nonutility Property, as appropriate.

F. The book cost less net salvage of depreciable electric plant retired shall be charged in its entirety to account 108, Accumulated Provision for Depreciation of Electric Plant in Service (Account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, in the case of Nonmajor utilities). Any amounts which, by approval or order of the Commission, are charged to account 182.1, Extraordinary Property Losses, shall be credited to account 108 (Account 110 for Nonmajor utilities).

G. In the case of Major utilities, the accounting for the retirement of amounts included in account 302, Franchises and Consents, and account 303, Miscellaneous Intangible Plant, and the items of limited-term interest in land included in the accounts for land and land rights, shall be as provided for in the text of account 111, Accumulated Provision for Amortization of Electric Plant in Service, account 404, Amortization of Limited-Term Electric Plant, and account 405, Amortization of Other Electric Plant.

11. *Work Order and Property Record System Required.*

A. Each utility shall record all construction and retirements of electric plant by means of work orders or job orders. Separate work orders may be opened for additions to and retirements of electric plant or the retirements may be included with the construction work order, provided, however, that all items relating to the retirements shall be kept separate from those relating to construction and provided, further, that any maintenance costs involved in the work shall likewise be segregated.

B. Each utility shall keep its work order system so as to show the nature of each addition to or retirement of electric plant, the total cost thereof, the source or sources of costs, and the electric plant account or accounts to which charged or credited. Work orders covering jobs of short duration may be cleared monthly.

C. In the case of Major utilities, each utility shall maintain records in which, for each plant account, the amounts of the annual additions and retirements, subsequent to the effective date of this system of accounts, are classified so as to show the number and cost of the various record units or retirement units.

12. *Transfers of Property.*

When property is transferred from one electric plant account to another, from one utility department to another, such as from electric to gas, from one operating division or area to another, to or from accounts 101, Electric Plant in Service, 104. Electric Plant Leased to Others, 105. Electric Plant Held for Future Use, and 121, Nonutility Property, the transfer shall be recorded by transferring the original cost thereof from the one account, department, or location to the other. Any related amounts carried in the accounts for accumulated provision for depreciation or amortization shall be transferred in accordance with the segregation of such accounts.

13. *Common Utility Plant.*

A. If the utility is engaged in more than one utility service, such as electric, gas, and water, and any of its utility plant is used in common for several utility services or for other purposes to such an extent and in such manner that it is impracticable to segregate it by utility services currently in the accounts, such property, with the approval of the Commission, may be designated and classified as "common utility plant."

B. The book amount of utility plant designated as common plant shall be included in account 118, Other Utility Plant, and if applicable in part to the electric department, shall be segregated and accounted for in subaccounts as electric plant is accounted for in accounts 101 to 107, inclusive, and electric plant adjustments in account 116; any amounts classifiable as common plant acquisition adjustments or common plant adjustments shall be subject to disposition as provided in paragraphs C and B of accounts 114 and 116, respectively, for amounts classified in those accounts. The original cost of common utility plant
service shall be classified according
detailed utility plant accounts appr
priate for the property.

C. The utility shall be prepared
show at any time and to report to t
Commission annually, or more fr
quently, if required, and by utili
plant accounts (301 to 399) the follo
ing: (1) The book cost of common uti
ty plant, (2) The allocation of su
cost to the respective departmen
using the common utility plant, a
(3) The basis of the allocation.

D. The accumulated provision f
depreciation and amortization of th
utility shall be segregated so as
show the amount applicable to th
property classified as common utili
plant.

E. The expenses of operation, mai
tenance, rents, depreciation and amo
tization of common utility plant sha
be recorded in the accounts prescribe
herein, but designated as common e
penses, and the allocation of such e
penses to the departments using th
common utility plant shall be suppor
ed in such manner as to reflect readil
the basis of allocation used.

14. *Transmission and Distributio
Plant.*

For the purpose of this system of a
counts:

A. "Transmission system" means:

(1) All land, conversion structure
and equipment employed at a primar
source of supply (i.e., generating sta
tion, or point of receipt in the case o
purchased power) to change the volt
age or frequency of electricity for th
purpose of its more efficient or con
venient transmission;

(2) All land, structures, lines, switch
ing and conversion stations, high ten
sion apparatus, and their control an
protective equipment between a gener
ating or receiving point and the en
trance to a distribution center o
wholesale point; and

(3) All lines and equipment whos
primary purpose is to augment, inte
grate or tie together the sources o
power supply

B. "Distribution system" means al
land, structures, conversion equip-
ment, lines, line transformers, and
other facilities employed between the
primary source of supply (i.e., generat-

ing station, or point of receipt in the case of purchased power) and of delivery to customers, which are not includible in transmission system, as defined in paragraph A, whether or not such land, structures, and facilities are operated as part of a transmission system or as part of a distribution system.

NOTE: Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.

C. Where poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights of way shall be classified as transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, etc., shall be classified as transmission or distribution facilities, according to the purpose for which used.

D. Where underground conduit contains both transmission and distribution conductors, the underground conduit and right of way shall be classified as distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which used.

E. Land (other than rights of way) and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to the major use thereof.

15. *Hydraulic production plant (Major Utilities).*

For the purpose of this system of accounts hydraulic production plant means all land and land rights, structures and ,improvements used in connection with hydraulic power generation, reservoirs dams and waterways, water wheels, turbines, generators, accessory electric equipment, miscellaneous powerplant equipment, roads, railroads, and bridges, and structures and improvements used in connection with fish and wildlife, and recreation.

16. *Nuclear Fuel Records Required (Major Utilities).*

Each utility shall keep all the necessary records to support the entries to the various nuclear fuel plant accounts classified under "Assets and Other Debits," Utility Plant 120.1 through 120.6, inclusive, account 518, Nuclear Fuel Expense and account 157, Nuclear Materials Held for Sale. These records shall be so kept as to readily furnish the basis of the computation of the net nuclear fuel costs.

Operating Expense Instructions

1. *Supervision and Engineering (Major Utilities).*

The supervision and engineering includible in the operating expense accounts shall consist of the pay and expenses of superintendents, engineers, clerks, other employees and consultants engaged in supervising and directing the operation and maintenance of each utility function. Wherever allocations are necessary in order to arrive at the amount to be included in any account, the method and basis of allocation shall be reflected by underlying records.

ITEMS

Labor

1. Special tests to determine efficiency of equipment operation.
2. Preparing or reviewing budgets, estimates, and drawings relating to operation or maintenance for departmental approval.
3. Preparing instructions for operations and maintenance activities.
4. Reviewing and analyzing operating results.
5. Establishing organizational setup of departments and executing changes therein.
6. Formulating and reviewing routines of departments and executing changes therein.
7. General training and instruction of employees by supervisors whose pay is chargeable hereto. Specific instruction and training in a particular type of work is chargeable to the appropriate functional account (See Electric Plant Instruction 3(19)).
8. Secretarial work for supervisory personnel, but not general clerical and stenographic work chargeable to other accounts.

Expenses

9. Consultants' fees and expenses.
10. Meals, traveling and incidental expenses.

2. *Maintenance.*

A. The cost of maintenance chargeable to the various operating expense and clearing accounts includes labor, materials, overheads and other expenses incurred in maintenance work. A list of work operations applicable generally to utility plant is included hereunder. Other work operations applicable to specific classes of plant are listed in functional maintenance expense accounts.

B. Materials recovered in connection with the maintenance of property shall be credited to the same account to which the maintenance cost was charged.

C. If the book cost of any property is carried in account 102, Electric Plant Purchased or Sold, the cost of maintaining such property shall be charged to the accounts for maintenance of property of the same class and use, the book cost of which is carried in other electric plant in service accounts. Maintenance of property leased from others shall be treated as provided in operating expense instruction 3.

ITEMS

1. Direct field supervision of maintenance.
2. Inspecting, testing, and reporting on condition of plant specifically to determine the need for repairs, replacements, rearrangements and changes and inspecting and testing the adequacy of repairs which have been made.
3. Work performed specifically for the purpose of preventing failure, restoring serviceability or maintaining life of plant.
4. Rearranging and changing the location of plant not retired.
5. Repairing for reuse materials recovered from plant.
6. Testing for locating and clearing trouble.
7. Net cost of installing, maintaining, and removing temporary facilities to prevent interruptions in service.
8. Replacing or adding minor items of plant which do not constitute a retirement unit. (See electric plant instruction 10.)

3. *Rents.*

A. The rent expense accounts provided under the several functional groups of expense accounts shall include all rents, including taxes paid by the lessee on leased property, for property used in utility operations, except (1) minor amounts paid for occasional or infrequent use of any property or equipment and all amounts paid for use of equipment that, if owned, would be includible in plant accounts 391 to 398, inclusive, which shall be treated as an expense item and included in the appropriate functional account and (2) rents which are chargeable to clearing accounts, and distributed therefrom t the appropriate account. If rents cove property used for more than one fun tion, such as production and transmi sion, or by more than one departmen the rents shall be apportioned to th appropriate rent expense or clearin accounts of each department on a actual, or, if necessary, an estimate basis.

B. When a portion of property o equipment rented from others for us in connection with utility operations i subleased, the revenue derived fron such subleasing shall be credited t the rent revenue account in operatin revenues; provided, however, that i case the rent was charged to a clearin account, amounts received from sub leasing the property shall be credite to such clearing account.

C. The cost, when incurred by th lessee, of operating and maintainin leased property, shall be charged t the accounts appropriate for the ex pense if the property were owned.

D. The cost incurred by the lessee o additions and replacements to electri plant leased from others shall be ac counted for as provided in electri plant instruction 6.

4. *Training Costs.*

When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, then see Electric Plant Instruction 3(19), for accounting.

Balance Sheet Chart of Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

101 Electric plant in service.
101.1 Property under capital leases.
102 Electric plant purchased or sold.
103 Experimental electric plant unclassified (Major only).
103.1 Electric plant in process of reclassification (Nonmajor only).
104 Electric plant leased to others.

105 Electric plant held for future use.
106 Completed construction not classified—Electric (Major only).
107 Construction work in progress—Electric.
108 Accumulated provision for depreciation of electric utility plant (Major only).
109 [Reserved]
110 Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only).
111 Accumulated provision for amortization of electric utility plant (Major only).
112—113 [Reserved]
114 Electric plant acquisition adjustments.
115 Accumulated provision for amortization of electric plant acquisition adjustments (Major only).
116 Other electric plant adjustments.
118 Other utility plant.
119 Accumulated provision for depreciation and amortization of other utility plant.
120.1 Nuclear fuel in process of refinement, conversion, enrichment and fabrication (Major only).
120.2 Nuclear fuel materials and assemblies—Stock account (Major only).
120.3 Nuclear fuel assemblies in reactor (Major only).
120.4 Spent nuclear fuel (Major only).
120.5 Accumulated provision for amortization of nuclear fuel assemblies (Major only).
120.6 Nuclear fuel under capital leases (Major only).

2. OTHER PROPERTY AND INVESTMENTS

121 Nonutility property.
122 Accumulated provision for depreciation and amortization of nonutility property.
123 Investment in associated companies (Major only).
123.1 Investment in subsidiary companies (Major only).
124 Other investments.
125 Sinking funds (Major only).
126 Depreciation fund (Major only).
127 Amortization fund—Federal (Major only).
128 Other special funds (Major only).
129 Special funds (Nonmajor only).

3. CURRENT AND ACCRUED ASSETS

130 Cash and working funds (Nonmajor only).
131 Cash (Major only).
132 Interest special deposits (Major only).
133 Dividend special deposits (Major only).
134 Other special deposits (Major only).
135 Working funds (Major only).
136 Temporary cash investments.
141 Notes receivable.
142 Customer accounts receivable.
143 Other accounts receivable.
144 Accumulated provision for uncollectible accounts—credit.
145 Notes receivable from associated companies.
146 Accounts receivable from associated companies.
151 Fuel stock (Major only).
152 Fuel stock expenses undistributed (Major only).
153 Residuals (Major only).
154 Plant materials and operating supplies.
155 Merchandise (Major only).
156 Other materials and supplies (Major only).
157 Nuclear materials held for sale (Major only).
163 Stores expense undistributed (Major only).
165 Prepayments.
171 Interest and dividends receivable (Major only).
172 Rents receivable (Major only).
173 Accrued utility revenues (Major only).
174 Miscellaneous current and accrued assets.

4. DEFERRED DEBITS

181 Unamortized debt expense.
182.1 Extraordinary property losses.
182.2 Unrecovered plant and regulatory study costs.
183 Preliminary survey and investigation charges (Major only).
184 Clearing accounts (Major only).
185 Temporary facilities (Major only).
186 Miscellaneous deferred debits.
187 Deferred losses from disposition of utility plant.
188 Research, development, and demonstration expenditures (Major only).
189 Unamortized loss on reacquired debt.
190 Accumulated deferred income taxes.

LIABILITIES AND OTHER CREDITS

5. PROPRIETARY CAPITAL

201 Common stock issued.
202 Common stock subscribed (Major only).
203 Common stock liability for conversion (Major only).
204 Preferred stock issued.
205 Preferred stock subscribed (Major only).
206 Preferred stock liability for conversion (Major only).
207 Premium on capital stock (Major only).
208 Donations received from stockholders (Major only).
209 Reduction in par or stated value of capital stock (Major only).
210 Gain on resale or cancellation of reacquired capital stock (Major only).

211 Miscellaneous paid-in capital.
212 Installments received on capital stock.
213 Discount on capital stock.
214 Capital stock expense.
215 Appropriated retained earnings.
215.1 Appropriated retained earnings—Amortization reserve, Federal.
216 Unappropriated retained earnings.
216.1 Unappropriated undistributed subsidiary earnings (Major only).
217 Reacquired capital stock.
218 Noncorporate proprietorship (Nonmajor only).

6. LONG-TERM DEBT

221 Bonds.
222 Reacquired bonds (Major only).
223 Advances from associated companies.
224 Other long-term debt.
225 Unamortized premium on long-term debt.
226 Unamortized discount on long-term debt—Debit.

7. OTHER NONCURRENT LIABILITIES

227 Obligations under capital leases—noncurrent.
228.1 Accumulated provision for property insurance.
228.2 Accumulated provision for injuries and damages.
228.3 Accumulated provision for pensions and benefits.
228.4 Accumulated miscellaneous operating provisions.
229 Accumulated provision for rate refunds.

8. CURRENT AND ACCRUED LIABILITIES

231 Notes payable.
232 Accounts payable.
233 Notes payable to associated companies.
234 Accounts payable to associated companies.
235 Customer deposits.
236 Taxes accrued.
237 Interest accrued.
238 Dividends declared (Major only).
239 Matured long-term debt (Major only).
240 Matured interest (Major only).
241 Tax collections payable (Major only).
242 Miscellaneous current and accrued liabilities.
243 Obligations under capital leases—current.

9. DEFERRED CREDITS

251 [Reserved]
252 Customer advances for construction.
253 Other deferred credits.
255 Accumulated deferred investment tax credits.
256 Deferred gains from disposition of utility plant.
257 Unamortized gain on reacquired debt.
281 Accumulated deferred income taxes—Accelerated amortization property.
282 Accumulated deferred income taxes—Other property.
283 Accumulated deferred income taxes—Other.

Balance Sheet Accounts

101 Electric plant in service (Major only).

A. This account shall include the original cost of electric plant, included in accounts 301 to 399, prescribed herein, owned and used by the utility in its electric utility operations, and having an expectation of life in service of more than one year from date of installation, including such property owned by the utility but held by nominees. (See also account 106 for unclassified construction costs of completed plant actually in service.)

B. The cost of additions to and betterments of property leased from others, which are includible in this account, shall be recorded in subdivisions separate and distinct from those relating to owned property. (See electric plant instruction 6.)

101.1 Property under capital leases.

A. This account shall include the amount recorded under capital leases for plant leased from others and used by the utility in its utility operations.

B. The electric property included in this account shall be classified separately according to the detailed accounts (301 to 399) prescribed for electric plant in service.

C. Records shall be maintained with respect to each capital lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

102 Electric plant purchased or sold.

A. This account shall be charged with the cost of electric plant acquired as an operating unit or system by purchase, merger, consolidation liquidation, or otherwise, and shall be credited with the selling price of like property transferred to others pending the distribution to appropriate accounts in accordance with electric plant instruction 5.

B. Within six months from the date of acquisition or sale of property recorded herein, the utility shall file with the Commission the proposed journal entries to clear from this account the amounts recorded herein.

103 Experimental electric plant unclassified (Major only).

A. This account shall include the cost of electric plant which was constructed as a research, development, and demonstration plant under the provisions of paragraph C, Account 107, Construction Work in Progress—Electric, and due to the nature of the plant it is desirous to operate it for a period of time in an experimental status.

B. Amounts in this account shall be transferred to Account 101, Electric Plant in Service, or Account 121, Nonutility Property as appropriate when the project is no longer considered as experimental.

C. The depreciation on property in this account shall be charged to Account 403, Depreciation Expense, and credited to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant. The amounts herein shall be depreciated over a period which would correspond to the estimated useful life of the relevant project considering the characteristics involved. However, when projects are transferred to Account 101, Electric Plant in Service, a new depreciation rate based on the remaining service life and undepreciated amounts, will be established.

D. Records shall be maintained with respect to each unit of experiment so that full details may be obtained as to the cost, depreciation and the experimental status.

E. Should it be determined that experimental plant recorded in this account will fail to satisfactorily perform its function, the costs thereof shall be accounted for as directed or authorized by the Commission.

103.1 Electric plant in process of reclassification (Nonmajor only).

A. This account shall include temporarily the balance of electric plant as of the effective date of the prior system of accounts, which has not yet been reclassified as of the effective date of this system of accounts. The detail or primary accounts in support of this account employed prior to such date shall be continued pending reclassification into the electric plant accounts herein prescribed (301-399), but shall not be used for additions, betterments, or new construction.

B. No charges other than as provided in paragraph A, above, shall be made to this account, but retirements of such unclassified electric plant shall be credited hereto and to the supporting (old) fixed capital accounts until the reclassification shall have been accomplished.

104 Electric plant leased to others.

A. This account shall include the original cost of electric plant owned by the utility, but leased to others as operating units or systems, where the lessee has exclusive possession.

B. The property included in this account shall be classified according to the detailed accounts (301 to 399) prescribed for electric plant in service and this account shall be maintained in such detail as though the property were used by the owner in its utility operations.

105 Electric plant held for future use.

A. This account shall include the original cost of electric plant (except land and land rights) owned and held for future use in electric service under a definite plan for such use, to include: (1) Property acquired (except land and land rights) but never used by the utility in electric service, but held for such service in the future under a definite plan, and (2) property (except land and land rights) previously used by the utility in service, but retired from such service and held pending its reuse in the future, under a definite plan, in electric service.

B. This account shall also include the original cost of land and land rights owned and held for future use in electric service under a plan for such use, to include land and land rights: (1) Acquired but never used by the utility in electric service, but held for such service in the future under a plan, and (2) previously held by the utility in service, but retired from such service and held pending its reuse in the future under a plan, in electric service. (See Electric Plant Instruction 7.)

C. In the event that property recorded in this account shall no longer be needed or appropriate for future utility operations, the company shall request Commission approval of journal entries to remove such property from this account when the gain realized from the sale or other disposition of the property is $100,000 or more, prior to their being recorded. Such filings shall include the description and original cost of individual properties removed from this account, the accounts charged upon removal, and any associated gains realized upon disposition of such property.

D. Gains or losses from the sale of land and land rights or other disposition of such property previously recorded in this account and not placed in utility service shall be recorded directly in accounts 411.6 or 411.7, as appropriate, except when determined to be significant by the Commission. Upon such a determination, the amounts shall be transferred to account 256, Deferred Gains from Disposition of Utility Plant, or account 187, Deferred Losses from Disposition of Utility Plant, and amortized to accounts 411.6, Gains from Disposition of Utility Plant, or 411.7, Losses from Disposition of Utility Plant, as appropriate.

E. The property included in this account shall be classified according to the detail accounts (301 to 399) prescribed for electric plant in service and the account shall be maintained in such detail as though the property were in service.

NOTE: Materials and supplies, meters and transformers held in reserve, and normal spare capacity of plant in service shall not be included in this account.

106 Completed construction not classified—Electric (Major only).

At the end of the year or such other date as a balance sheet may be required by the Commission, this account shall include the total of the balances of work orders for electric plant which has been completed and placed in service but which work orders have not been classified for transfer to the detailed electric plant accounts.

NOTE: For the purpose of reporting to the Commission the classification of electric plant in service by accounts is required, the utility shall also report the balance in this account tentatively classified as accurately as practicable according to prescribed account classifications. The purpose of this provision is to avoid any significant omissions in reported amounts of electric plant in service.

107 Construction work in progress—Electric.

A. This account shall include the total of the balances of work orders for electric plant in process of construction.

B. Work orders shall be cleared from this account as soon as practicable after completion of the job. Further, if a project, such as a hydroelectric project, a steam station or a transmission line, is designed to consist of two or more units or circuits which may be placed in service at different dates, any expenditures which are common to and which will be used in the operation of the project as a whole shall be included in electric plant in service upon the completion and the readiness for service of the first unit. Any expenditures which are identified exclusively with units of property not yet in service shall be included in this account.

C. Expenditures on research, development, and demonstration projects for construction of utility facilities are to be included in a separate subdivision in this account. Records must be maintained to show separately each project along with complete detail of the nature and purpose of the research, development, and demonstration project together with the related costs.

108 Accumulated provision for depreciation of electric utility plant (Major only).

A. This account shall be credited with the following:

(1) Amounts charged to account 403, Depreciation Expense, or to clearing accounts for current depreciation expense for electric plant in service.

(2) Amounts charged to account 421, Miscellaneous Nonoperating Income, for depreciation expense on property included in account 105, Electric Plant Held for Future Use. Include, also, the balance of accumulated provision for depreciation on property when transferred to account 105, Electric Plant Held for Future Use, from other property accounts. Normally account 108 will not be used for current depreciation provisions because, as provided herein, the service life during which depreciation is computed commences with the date property is includible in electric plant in service; however, if special circumstances indicate the propriety of current accruals for depreciation, such charges shall be made to account 421, Miscellaneous Nonoperating Income.

(3) Amounts charged to account 413, Expenses of Electric Plant Leased to Others, for electric plant included in account 104, Electric Plant Leased to Others.

(4) Amounts charged to account 416, Costs and Expenses of Merchandising, Jobbing, and Contract Work, or to clearing accounts for current depreciation expense.

(5) Amounts of depreciation applicable to electric properties acquired as operating units or systems. (See electric plant instruction 5.)

(6) Amounts charged to account 182, Extraordinary Property Losses, when authorized by the Commission.

(7) Amounts of depreciation applicable to electric plant donated to the utility.

(The utility shall maintain separate subaccounts for depreciation applicable to electric plant in service, electric plant leased to others and electric plant held for future use.)

B. At the time of retirement of depreciable electric utility plant, this account shall be charged with the book cost of the property retired and the cost of removal and shall be credited with the salvage value and any other amounts recovered, such as insurance. When retirement, costs of removal and salvage are entered originally in retirement work orders, the net total of such work orders may be included in a separate subaccount hereunder. Upon completion of the work order, the proper distribution to subdivisions of this account shall be made as provided in the following paragraph.

C. For general ledger and balance sheet purposes, this account shall be regarded and treated as a single composite provision for depreciation. For purposes of analysis, however, each utility shall maintain subsidiary records in which this account is segregated according to the following functional classification for electric plant: (1) Steam production, (2) Nuclear production, (3) Hydraulic production, (4) Other production, (5) Transmission, (6) Distribution, and (7) General. These subsidiary records shall reflect the current credits and debits to this account in sufficient detail to show separately for each such functional classification (a) the amount of accrual for depreciation, (b) the book cost of property retired, (c) cost of removal, (d) salvage, and (e) other items, including recoveries from insurance.

D. When transfers of plant are made from one electric plant account to another, or from or to another utility department, or from or to nonutility property accounts, the accounting for the related accumulated provision for depreciation shall be as provided in electric plant instruction 12.

E. The utility is restricted in its use of the accumulated provision for depreciation to the purposes set forth above. It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

109 [Reserved]

110 Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only).

A. This account shall be credited with the following:

(1) Amounts charged to account 403 Depreciation Expense, to account 404 Amortization of Limited-Term Electric Plant, to account 405, Amortization of Other Electric Plant, to account 413, Expenses of Electric Plant Leased to Others, to account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work, or to clearing accounts for currently accruing depreciation and amortization.

(2) Amounts of depreciation applicable to electric properties acquired as operating units or systems. (See electric plant instruction 4.)

(3) Amounts chargeable to account 182, Extraordinary Property Losses, when authorized by the Commission.

(4) Amounts of depreciation applicable to electric plant donated to the utility.

B. At the time of retirement of electric plant, this account shall be charged with the book cost of the property retired and the cost of removal, and shall be credited with the salvage value and any other amounts recovered, such as insurance. When retirements, cost of removal and salvage are entered originally in retirement work orders, the net total of such work orders may be included in a separate subaccount hereunder. Upon completion of the work order, the proper distribution to subdivisions of this account shall be made as provided in the following paragraph.

C. For general ledger and balance sheet purposes, this account shall be regarded and treated as a single composite provision for depreciation. This account shall be subdivided to show the amount applicable to Electric Plant in Service, Electric Plant Leased to Others, and Electric Plant Held for Future Use. These subsidiary records shall show the current credits and debits to this account in sufficient detail to show separately for each subdivision, (1) the amount of accrual for depreciation or amortization, (2) the book cost of property retired, (3) cost of removal, (4) salvage and (5) other items, including recoveries from insurance.

D. When transfers of plant are made from one electric plant account to another, or form or to nonutility property, the accounting shall be as provided in electric plant instruction 10.

E. The utility is restricted in its use of the accumulated provision for depreciation to the purposes set forth above. It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

111 Accumulated provision for amortization of electric utility plant (Major only).

A. This account shall be credited with the following:

(1) Amounts charged to account 404, Amortization of Limited-Term Electric Plant, for the current amortization of limited-term electric plant investments.

(2) Amounts charged to account 421, Miscellaneous Nonoperating Income, for amortization expense on property included in account 105, Electric Plant Held for Future Use. Include also the balance of accumulated provision for amortization on property when transferred to account 105, Electric Plant Held for Future Use, from other property accounts. See also paragraph A(2), account 108, Accumulated Provision for Depreciation of Electric Utility Plant.

(3) Amounts charged to account 405, Amortization of Other Electric Plant.

(4) Amounts charged to account 413, Expenses of Electric Plant Leased to Others, for the current amortization of limited-term or other investments subject to amortization included in account 104, Electric Plant Leased to Others.

(5) Amounts charged to account 425, Miscellaneous Amortization, for the amortization of intangible or other electric plant which does not have a definite or terminable life and is not subject to charges for depreciation expense, with Commission approval.

(The utility shall maintain subaccounts of this account for the amortization applicable to electric plant in service, electric plant leased to others and electric plant held for future use.)

B. When any property to which this account applies is sold, relinquished, or otherwise retired from service, this account shall be charged with the amount previously credited in respect to such property. The book cost of the property so retired less the amount chargeable to this account and less the net proceeds realized at retirement shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate.

C. For general ledger and balance sheet purposes, this account shall be regarded and treated as a single composite provision for amortization. For purposes of analysis, however, each utility shall maintain subsidiary records in which this account is segregated according to the following functional classification for electric plant: (1) Steam production, (2) nuclear production, (3) hydraulic production, (4) other production, (5) transmission, (6) distribution, and (7) general. These subsidiary records shall reflect the current credits and debits to this account in sufficient detail to show separately for each such functional classification (a) the amount of accrual for amortization, (b) the book cost of property retired, (c) cost of removal, (d) salvage, and (e) other items, including recoveries from insurance.

D. The utility is restricted in its use of the accumulated provision for amortization to the purposes set forth above. It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

112—113 [Reserved]

114 Electric plant acquisition adjustments.

A. This account shall include the difference between (1) the cost to the accounting utility of electric plant acquired as an operating unit or system by purchase, merger, consolidation, liquidation, or otherwise, and (2) the original cost, estimated, if not known, of such property, less the amount or amounts credited by the accounting utility at the time of acquisition to accumulated provisions for depreciation and amortization and contributions in aid of construction with respect to such property.

B. With respect to acquisitions after the effective date of this system of accounts, this account shall be subdivided so as to show the amounts included herein for each property acquisition and to electric plant in service, electric plant held for future use, and electric plant leased to others. (See electric plant instruction 5.)

C. Debit amounts recorded in this account related to plant and land acquisition may be amortized to account 425, Miscellaneous Amortization, over a period not longer than the estimated remaining life of the properties to which such amounts relate. Amounts related to the acquisition of land only may be amortized to account 425 over a period of not more than 15 years. Should a utility wish to account for debit amounts in this account in any other manner, it shall petition the Commission for authority to do so. Credit amounts recorded in this account shall be accounted for as directed by the Commission.

115 Accumulated provision for amortization of electric plant acquisition adjustments (Major only).

This account shall be credited or debited with amounts which are includible in account 406, Amortization of Electric Plant Acquisition Adjustments or account 425, Miscellaneous Amortization, for the purpose of providing for the extinguishment of amounts in account 114, Electric Plant Acquisition Adjustments, in instances where the amortization of account 114 is not being made by direct write-off of the account.

116 Other electric plant adjustments.

A. This account shall include the difference between the original cost, estimated if not known, and the book cost of electric plant to the extent that such difference is not properly includible in account 114, Electric Plant Acquisition Adjustments. (See electric plant instruction 1C).

B. Amounts included in this account shall be classified in such manner as to show the origin of each amount and shall be disposed of as the Commission may approve or direct.

NOTE: The provisions of this account shall not be construed as approving or authorizing the recording of appreciation of electric plant.

118 Other utility plant.

This account shall include the balances in accounts for utility plant, other than electric plant, such as gas, railway, etc.

119 Accumulated provision for depreciation and amortization of other utility plant.

This account shall include the accumulated provision for depreciation and amortization applicable to utility property other than electric plant.

120.1 Nuclear fuel in process of refinement, conversion, enrichment and fabrication (Major only).

A. This account shall include the original cost to the utility of nuclear fuel materials while in process of refinement, conversion, enrichment, and fabrication into nuclear fuel assemblies and components, including processing, fabrication, and necessary shipping costs. This account shall also include the salvage value of nuclear materials which are actually being reprocessed for use and were transferred from account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies. (See definition 20.)

B. This account shall be credited and account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, shall be debited for the cost of completed fuel assemblies delivered for use in refueling or to be held as spares. In the case of the initial core loading, the transfer shall be made directly to account 120.3, Nuclear Fuel Assemblies in Reactor, upon the conclusion of the experimental or test period of the plant prior to its becoming available for service.

ITEMS

1. Cost of natural uranium, uranium ores concentrates or other nuclear fuel sources, such as thorium, plutonium, and U-233.
2. Value of recovered nuclear materials being reprocessed for use.
3. Milling process costs.
4. Sampling and weighing, and assaying costs.
5. Purification and conversion proces costs.
6. Costs of enrichment by gaseous diffusion or other methods.
7. Costs of fabrication into fuel forms suitable for insertion in the reactor.
8. All shipping costs of materials and components, including shipping of fabricated fuel assemblies to the reactor site.
9. Use charges on leased nuclear materials while in process of refinement, conversion, enrichment, and fabrication.

120.2 Nuclear fuel materials and assemblies—Stock account (Major only).

A. This account shall be debited and account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication, shall be credited with the cost of fabricated fuel assemblies delivered for use in refueling or to be carried in stock as spares. It shall also include the original cost of fabricated fuel assemblies purchased in completed form. This account shall also include the original cost of partially irradiated fuel assemblies being held in stock for reinsertion in a reactor which had been transferred from account 120.3, Nuclear Fuel Assemblies in Reactor.

B. When fuel assemblies included in this account are inserted in a reactor, this account shall be credited and account 120.3, Nuclear Fuel Assemblies in Reactor, debited for the cost of such assemblies.

C. This account shall also include the cost of nuclear materials and byproduct materials being held for future use and not actually in process in account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication.

120.3 Nuclear fuel assemblies in reactor (Major only).

A. This account shall include the cost of nuclear fuel assemblies when inserted in a reactor for the production of electricity. The amounts included herein shall be transferred from account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, except for the initial core loading which will be transferred directly from account 120.1.

B. Upon removal of fuel assemblies from a reactor, the original cost of the assemblies removed shall be transferred to account 120.4, Spent Nuclear Fuel or account 120.2, Nuclear Fuel Materials and Assemblies—Stock Account, as appropriate.

120.4 Spent nuclear fuel (Major only).

A. This account shall include the original cost of nuclear fuel assemblies, in the process of cooling, transferred from account 120.3, Nuclear Fuel Assemblies in Reactor, upon removal from a reactor pending reprocessing.

B. This account shall be credited and account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, debited for fuel assemblies, after the cooling period is over, at the cost recorded in this account.

120.5 Accumulated provision for amortization of nuclear fuel assemblies (Major only).

A. This account shall be credited and account 518, Nuclear fuel expense shall be debited for the amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the original cost of nuclear fuel assemblies, plus or less the expected net salvage value of uranium, plutonium, and other by-products.

B. This account shall be credited with the net salvage value of uranium, plutonium, and other nuclear by-products when such items are sold, transferred or otherwise disposed of. Account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication, shall be debited with the net salvage value of nuclear materials to be reprocessed. Account 157, Nuclear Materials Held for Sale shall be debited for the net salvage value of nuclear materials not to be reprocessed but to be sold or otherwise disposed of and account 120.2, will be debited with the net salvage value of nuclear materials that will be held for future use and not actually in process, in account 120.1, Nuclear Fuel in Process of Refinement, Conversion, Enrichment, and Fabrication.

C. This account shall be debited and account 120.4, Spent Nuclear Fuel, shall be credited with the cost of fuel assemblies at the end of the cooling period.

120.6 Nuclear fuel under capital leases (Major only).

A. This account shall include the amount recorded under capital leases for nuclear fuel leased from others for use by the utility in its utility operations.

B. Records shall be maintained with respect to each capital lease reflecting: (1) Name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of nuclear fuel leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

121 Nonutility property.

A. This account shall include the book cost of land, structures, equipment, or other tangible or intangible property owned by the utility, but not used in utility service and not properly includible in account 105, Electric Plant Held for Future Use.

B. This account shall also include the amount recorded under capital leases for property leased from others and used by the utility in its nonutility operations. Records shall be maintained with respect to each lease reflecting: (1) name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lessee payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid.

C. This account shall be subdivided so as to show the amount of property used in operations which are nonutility in character but nevertheless constitute a distinct operating activity of the company (such as operation of an ice department where such activity is not classed as a utility) and the amount of miscellaneous property not used in operations. The records in support of each subaccount shall be maintained so as to show an appropriate classification of the property.

NOTE: The gain from the sale or other disposition of property included in this account which had been previously recorded in account 105, Electric Plant Held for Future Use, shall be accounted for in accordance with paragraph C of account 105.

122 Accumulated provision for depreciation and amortization of nonutility property.

This account shall include the accumulated provision for depreciation and amortization applicable to nonutility property.

123 Investment in associated companies (Major only).

A. This account shall include the book cost of investments in securities issued or assumed by associated companies and investment advances to such companies, including interest accrued thereon when such interest is not subject to current settlement, provided that the investment does not relate to a subsidiary company. (If the investment relates to a subsidiary company it shall be included in account 123.1, Investment in Subsidiary Companies.) Include herein the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, Interest and Dividend Income.)

B. This account shall be maintained in such manner as to show the investment in securities of, and advances to, each associated company together with full particulars regarding any of such investments that are pledged.

NOTE A: Securities and advances of associated companies owned and pledged shall be included in this account, but such securities, if held in special deposits or in special funds, shall be included in the appropriate deposit or fund account. A complete record of securities pledged shall be maintained.

NOTE B: Securities of associated companies held as temporary cash investments are includible in account 136, Temporary Cash Investments.

NOTE C: Balances in open accounts with associated companies, which are subject to current settlement, are includible in account 146, Accounts Receivable from Associated Companies.

NOTE D: The utility may write down the cost of any security in recognition of a decline in the value thereof. Securities shall be written off or written down to a nominal value if there is no reasonable prospect of substantial value. Fluctuations in market value shall not be recorded but a permanent impairment in the value of securities shall be recognized in the accounts. When securities are written off or written down, the amount of the adjustment shall be charged to account 426.5, Other Deductions, or to an appropriate account for accumulated provisions for loss in value established as a separate subdivision of this account.

123.1 Investment in subsidiary companies (Major only).

A. This account shall include the cost of investments in securities issued or assumed by subsidiary companies and investment advances to such companies, including interest accrued thereon when such interest is not subject to current settlement plus the equity in undistributed earnings or losses of such subsidiary companies since acquisition. This account shall be credited with any dividends declared by such subsidiaries.

B. This account shall be maintained in such a manner as to show separately for each subsidiary: the cost of such investments in the securities of the subsidiary at the time of acquisition; the amount of equity in the subsidiary's undistributed net earnings or net losses since acquisition; advances or loans to such subsidiary; and full particulars regarding any such investments that are pledged.

124 Other investments.

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See account 419, Interest and Dividend Income.)

B. The cost of capital stock of the utility reacquired by it under a definite plan for resale pursuant to authorization by the Board of Directors may, if permitted by statutes, be included in a separate subdivision of this account. (See also account 210, Gain on Resale or Cancellation of Reacquired Capital Stock, and account 217, Reacquired Capital Stock.)

C. The records shall be maintained n such manner as to show the amount f each investment and the investment dvances to each person.

NOTE A: Securities owned and pledged hall be included in this account, but securiies held in special deposits or in special unds shall be included in appropriate deosit or fund accounts. A complete record of ecurities pledged shall be maintained.

NOTE B: Securities held as temporary cash nvestments shall not be included in this acount.

NOTE C: Special funds. See Note D of acount 123.

125 Sinking funds (Major only).

This account shall include the amount of cash and book cost of investments held in sinking funds. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts, may be made as necessary for the purpose of paying matured sinking-fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation fund (Major only).

This account shall include the amount of cash and the book cost of investments which have been segregated in a special fund for the purpose of identifying such assets with the accumulated provisions for depreciation.

127 Amortization fund—Federal (Major only).

This account shall include the amount of cash and book cost of investments of any fund maintained pursuant to the requirements of a federal regulatory body, and the cash and investments segregated for the purpose of identifying the specific assets associated with account 215.1, Appropriated Retained Earnings—Amortization Reserve, Federal.

128 Other special funds (Major only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. A separate account with appropriate title, shall be kept for each fund.

NOTE: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employee benefits shall not be included in this account.

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash, those assets which are readily convertible into cash or are held for current use in operations or construction, current claims against others, payment of which is reasonably assured, and amounts accruing to the utility which are subject to current settlement, except such items for which accounts other than those designated as current and accrued assets are provided. There shall not be included in the group of accounts designated as current and accrued assets any item, the amount or collectibility of which is not reasonably assured, unless an adequate provision for possible loss has been made therefor. Items of current character but of doubtful value may be written down and for record purposes carried in these accounts at nominal value.

129 Special funds (Nonmajor only).

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for bond retirements, property additions and replacements, insurance, employees' pensions, savings, relief, hospital, and other purposes not provided for elsewhere. A separate account, with appropriate title, shall be kept for each fund.

NOTE A: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employees benefits shall not be included in this account.

NOTE B: Licensees under the Federal Power Act which are required to establish an amortization fund under terms of the license shall provide a special subdivision of this account for the purpose of accounting for and identifying the cash, investments or other specific assets associated with account 215.1, Appropriated Retained Earnings—Amortization Reserve, Federal.

Special Instructions for Current and Accrued Assets. Current and accrued assets are cash, those assets which are readily convertible into cash or are held for current use in operations or construction, current claims against others, payment of which is reasonably assured, and amounts accruing to the utility which are subject to current settlement, except such items for which accounts other than those designated as current and accrued assets are provided. There shall not be included in the group of accounts designated as current and accrued assets any item, the amount or collectibility of which is not reasonably assured, unless an adequate provision for possible loss has been made therefor. Items of current character but of doubtful value may be written down and for record purposes carried in these accounts at nominal value.

130 Cash and working funds (Nonmajor only).

This account shall include the amount of cash on hand and in banks and cash advanced to officers, agents, employees, and others as petty cash or working funds. Special cash deposits for payment of interest, dividends or other special purposes shall be included in this account in separate subdivisions which shall specify the purpose for which each such special deposit is made.

NOTE: Special Deposits for more than one year which are not offset by current liabilities, shall not be charged to this account but to account 125, Special Funds.

131 Cash (Major only).

This account shall include the amount of current cash funds except working funds.

132 Interest special deposits (Major only).

This account shall include special deposits with fiscal agents or others for the payment of interest.

133 Dividend special deposits (Major only).

This account shall include special deposits with fiscal agents or others for the payment of dividends.

134 Other special deposits (Major only).

This account shall include deposits with fiscal agents or others for special purposes other than the payment of interest and dividends. Such special deposits may include cash deposited with federal, state, or municipal authorities as a guaranty for the fulfillment of obligations; cash deposited with trustees to be held until mortgaged property sold, destroyed, or otherwise disposed of is replaced; cash realized from the sale of the accounting utility's securities and deposited with trustees to be held until invested in property of the utility, etc. Entries to this account shall specify the purpose for which the deposit is made.

NOTE: Assets available for general corporate purposes shall not be included in this account. Further, deposits for more than one year, which are not offset by current liabilities, shall not be charged to this account but to account 128, Other Special Funds.

135 Working funds (Major only).

This account shall include cash advanced to officers, agents, employees, and others as petty cash or working funds.

136 Temporary cash investments.

A. This account shall include the book cost of investments, such as demand and time loans, bankers' acceptances, United States Treasury certificates, marketable securities, and other similar investments, acquired for the purpose of temporarily investing cash.

B. This account shall be so maintained as to show separately temporary cash investments in securities of associated companies and of others. Records shall be kept of any pledged investments.

141 Notes receivable.

This account shall include the book cost, not includible elsewhere, of all collectible obligations in the form of notes receivable and similar evidences (except interest coupons) of money due on demand or within one year from the date of issue, except, however, notes receivable from associated companies. (See account 136, Temporary Cash Investments, and account 145, Notes Receivable from Associated Companies.)

NOTE: The face amount of notes receivable
iscounted, sold, or transferred without re-
easing the utility from liability as endorser
hereon, shall be credited to a separate sub-
ivision of this account and appropriate dis-
losure shall be made in financial state-
ents of any contingent liability arising
rom such transactions.

42 Customer accounts receivable.

A. This account shall include
mounts due from customers for utili-
y service, and for merchandising, job-
ing and contract work. This account
hall not include amounts due from as-
ociated companies.

B. This account shall be maintained
o as to permit ready segregation of
he amounts due for merchandising,
obbing and contract work.

43 Other accounts receivable.

A. This account shall include
mounts due the utility upon open ac-
ounts, other than amounts due from
ssociated companies and from cus-
omers for utility services and mer-
handising, jobbing and contract work.

B. This account shall be maintained
o as to show separately amounts due
n subscriptions to capital stock and
rom officers and employees, but the
ccount shall not include amounts ad-
anced to officers or others as working
unds. (See account 135, Working
Funds.)

44 Accumulated provision for uncollectible accounts—credit.

A. This account shall be credited
with amounts provided for losses on
ccounts receivable which may become
uncollectible, and also with collections
on accounts previously charged
hereto. Concurrent charges shall be
made to account 904, Uncollectible Ac-
counts, for amounts applicable to utili-
ty operations, and to corresponding ac-
counts for other operations. Records
shall be maintained so as to show the
write-offs of account receivable for
each utility department.

B. This account shall be subdivided
to show the provision applicable to the
following classes of accounts receiva-
ble:

Utility customers.
Merchandising, jobbing and contract work.
Officers and employees.
Others.

NOTE A: Accretions to this account shall not be made in excess of a reasonable provision against losses of the character provided for.

NOTE B: If provisions for uncollectible notes receivable or for uncollectible receivables from associated companies are necessary, separate subaccounts therefor shall be established under the account in which the receivable is carried.

145 Notes receivable from associated companies.

146 Accounts receivable from associated companies.

These accounts shall include notes and drafts upon which associated companies are liable, and which mature and are expected to be paid in full not later than one year from the date of issue, together with any interest thereon, and debit balances subject to current settlement in open accounts with associated companies. Items which do not bear a specified due date but which have been carried for more than twelve months and items which are not paid within twelve months from due date shall be transferred to account 123, Investment in Associated Companies.

NOTE A: On the balance sheet, accounts receivable from an associated company may be set off against accounts payable to the same company.

NOTE B: The face amount of notes receivable discounted, sold or transferred without releasing the utility from liability as endorser thereon, shall be credited to a separate subdivision of this account and appropriate disclosure shall be made in financial statements of any contingent liability arising from such transactions.

151 Fuel stock (Major only).

This account shall include the book cost of fuel on hand.

Items

1. Invoice price of fuel less any cash or other discounts.
2. Freight, switching, demurrage and other transportation charges, not including, however, any charges for unloading from the shipping medium.
3. Excise taxes, purchasing agents' commissions, insurance and other expenses directly assignable to cost of fuel.
4. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to

transport fuel from the point of acquisition to the unloading point.

5. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

152 Fuel stock expenses undistributed (Major only).

A. This account may include the cost of labor and of supplies used and expenses incurred in unloading fuel from the shipping medium and in the handling thereof prior to its use, if such expenses are sufficiently significant in amount to warrant being treated as a part of the cost of fuel inventory rather than being charged direct to expense as incurred.

B. Amounts included herein shall be charged to expense as the fuel is used to the end that the balance herein shall not exceed the expenses attributable to the inventory of fuel on hand.

ITEMS

Labor:

1. Procuring and handling of fuel.
2. All routine fuel analyses.
3. Unloading from shipping facility and putting in storage.
4. Moving of fuel in storage and transferring from one station to another.
5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank or holder of boiler house structure.
6. Operation of mechanical equipment, such as locomotives, trucks, cars, boats, barges, cranes, etc.

Supplies and Expenses:

7. Tools, lubricants and other supplies.
8. Operating supplies for mechanical equipment.
9. Transportation and other expenses in moving fuel.
10. Stores expenses applicable to fuel.

153 Residuals (Major only).

This account shall include the book cost of any residuals produced in production or manufacturing processes.

154 Plant materials and operating supplies.

A. This account shall include the cost of materials purchased primarily for use in the utility business for construction, operation and maintenance purposes. For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators). For both Major and Nonmajor utilities, it shall include also the book cost of materials recovered in connection with construction, maintenance or the retirement of property, such materials being credited to construction, maintenance or accumulated depreciation provision, respectively, and included herein as follows:

(1) Reusable materials consisting of large individual items shall be included in this account at original cost, estimated if not known. The cost of repairing such items shall be charged to the maintenance account appropriate for the previous use.

(2) Reusable materials consisting of relatively small items, the identity of which (from the date of original installation to the final abandonment or sale thereof) cannot be ascertained without undue refinement in accounting, shall be included in this account at current prices new for such items. The cost of repairing such items shall be charged to the appropriate expense account as indicated by previous use.

(3) Scrap and nonusable materials included in this account shall be carried at the estimated net amount realizable therefrom. The difference between the amounts realized for scrap and nonusable materials sold and the net amount at which the materials were carried in this account, as far as practicable, shall be adjusted to the accounts credited when the materials were charged to this account.

B. Materials and supplies issued shall be credited hereto and charged to the appropriate construction, operating expense, or other account on the basis of a unit price determined by the use of cumulative average, first-in-first-out, or such other method of inventory accounting as conforms with accepted accounting standards consistently applied.

C. For Nonmajor utilities, inventories of materials, supplies, fuel, etc., shall be taken at least annually and the necessary adjustments shall be made to bring this account into agreement with the actual inventories. In effecting the adjustments, large differences which can be assigned to important classes of materials shall be equitably adjusted among the accounts to which such classes of materials have

en charged since the previous inven-
ry. Other differences shall be equita-
y apportioned among the accounts
which materials have been charged.

ITEMS

. Invoice price of materials less cash or
her discounts.
. Freight, switching or other transporta-
n charges when practicable to include as
rt of the cost of particular materials to
ich they relate.
. Customs duties and excise taxes.
. Costs of inspection and special tests
ior to acceptance.
. Insurance and other directly assignable
arges.

NOTE A: Where expenses applicable to ma-
rials purchased cannot be directly as-
ned to particular purchases, they may be
arged to a stores expense clearing account
ccount 163, Stores Expense Undistributed,
the case of Major utilities), and distribut-
therefrom to the appropriate account.

NOTE B: When materials and supplies are
rchased for immediate use, they need not
carried through this account but may be
arged directly to the appropriate utility
ant or expense account.

5 **Merchandise (Major only).**

This account shall include the book
st of materials and supplies and ap-
liances and equipment held primarily
r merchandising, jobbing and con-
act work. The principles prescribed
accounting for utility materials and
pplies shall be observed in respect to
ems carried in this account.

6 **Other materials and supplies (Major only).**

This account shall include the book
st of materials and supplies held pri-
arily for nonutility purposes. The
rinciples prescribed in accounting for
tility materials and supplies shall be
bserved in respect to items carried in
his account.

7 **Nuclear materials held for sale (Major only).**

This account shall include the net
alvage value of uranium, plutonium
nd other nuclear materials held by
he company for sale or other disposi-
ion and that are not to be reused by
he company in its electric utility op-
rations. This account shall be debited
nd account 120.5, Accumulated Provi-
ion for Amortization of Nuclear Fuel
Assemblies, credited for such net salvage value. Any difference between the amount recorded in this account and the actual amount realized from the sale of materials shall be debited or credited, as appropriate, to account 518, Nuclear Fuel Expense at the time of such sale.

163 **Stores expense undistributed (Major only).**

A. This account shall include the cost of supervision, labor and expenses incurred in the operation of general storerooms, including purchasing, storage, handling and distribution of materials and supplies.

B. This account shall be cleared by adding to the cost of materials and supplies issued a suitable loading charge which will distribute the expense equitably over stores issues. The balance in the account at the close of the year shall not exceed the amount of stores expenses reasonably attributable to the inventory of materials and supplies exclusive of fuel, as any amount applicable to fuel costs should be included in account 152, Fuel Stock Expenses Undistributed.

ITEMS

Labor:

1. Inspecting and testing materials and supplies when not assignable to specific items.
2. Unloading from shipping facility and putting in storage.
3. Supervision of purchasing and stores department to extent assignable to materials handled through stores.
4. Getting materials from stock and in readiness to go out.
5. Inventorying stock received or stock on hand by stores employees but not including inventories by general department employees as part of internal or general audits.
6. Purchasing department activities in checking material needs, investigating sources of supply, analyzing prices, preparing and placing orders, and related activities to extent applicable to materials handled through stores. (Optional. Purchasing department expenses may be included in administrative and general expenses.)
7. Maintaining stores equipment.
8. Cleaning and tidying storerooms and stores offices.
9. Keeping stock records, including recording and posting of material receipts and issues and maintaining inventory record of stock.

10. Collecting and handling scrap materials in stores.

Supplies and expenses:

11. Adjustments of inventories of materials and supplies but not including large differences which can readily be assigned to important classes of materials and equitably distributed among the accounts to which such classes of materials have been charged since the previous inventory.

12. Cash and other discounts not practically assignable to specific materials.

13. Freight, express, etc., when not assignable to specific items.

14. Heat, light and power for storerooms and store offices.

15. Brooms, brushes, sweeping compounds and other supplies used in cleaning and tidying storerooms and stores offices.

16. Injuries and damages.

17. Insurance on materials and supplies and on stores equipment.

18. Losses due to breakage, leakage, evaporation, fire or other causes, less credits for amounts received from insurance, transportation companies or others in compensation of such losses.

19. Postage, printing, stationery and office supplies.

20. Rent of storage space and facilities.

21. Communication service.

22. Excise and other similar taxes not assignable to specific materials.

23. Transportation expense on inward movement of stores and on transfer between storerooms but not including charges on materials recovered from retirements which shall be accounted for as part of cost of removal.

NOTE: A physical inventory of each class of materials and supplies shall be made at least every two years.

165 Prepayments.

This account shall include amounts representing prepayments of insurance, rents, taxes, interest and miscellaneous items, and shall be kept or supported in such manner as to disclose the amount of each class of prepayment.

171 Interest and dividends receivable (Major only).

This account shall include the amount of interest on bonds, mortgages, notes, commercial paper, loans, open accounts, deposits, etc., the payment of which is reasonably assured, and the amount of dividends declared or guaranteed on stocks owned.

NOTE A: Interest which is not subject to current settlement shall not be included herein but in the account in which is carried the principal on which the interest is accrued.

NOTE B: Interest and dividends receivable from associated companies shall be included in account 146, Accounts receivable from associated companies.

172 Rents receivable (Major only).

This account shall include rents receivable or accrued on property rented or leased by the utility to others.

NOTE: Rents receivable from associated companies shall be included in account 146, Accounts Receivable from Associated Companies.

173 Accrued utility revenues (Major only).

At the option of the utility, the estimated amount accrued for service rendered, but not billed at the end of any accounting period, may be included herein. In case accruals are made for unbilled revenues, they shall be made likewise for unbilled expenses, such as for the purchase of energy.

174 Miscellaneous current and accrued assets.

This account shall include the book cost of all other current and accrued assets, appropriately designated and supported so as to show the nature of each asset included herein.

181 Unamortized debt expense.

This account shall include expenses related to the issuance or assumption of debt securities. Amounts recorded in this account shall be amortized over the life of each respective issue under a plan which will distribute the amount equitably over the life of the security. The amortization shall be on a monthly basis, and the amounts thereof shall be charged to account 428, Amortization of Debt Discount and Expense. Any unamortized amounts outstanding at the time that the related debt is prematurely reacquired shall be accounted for as indicated in General Instruction 17.

182.1 Extraordinary property losses.

A. When authorized or directed by the Commission, this account shall include extraordinary losses, which could not reasonably have been anticipated and which are not covered by in-ance or other provisions, such as foreseen damages to property.

3. Application to the Commission permission to use this account all be accompanied by a statement ing a complete explanation with re- ct to the items which it is proposed include herein, the period over ich, and the accounts to which it is posed to write off the charges, and er pertinent information.

.2 Unrecovered plant and regulatory study costs.

. This account shall include: (1) nrecurring costs of studies and lyses mandated by regulatory dies related to plants in service, nsferred from account 183, Prelimi- y Survey and Investigation arges, and not resulting in construc- n; and (2) when authorized by the mmission, significant unrecovered ts of plant facilities where con- uction has been cancelled or which e been prematurely retired.

. This account shall be credited and ount 407, Amortization of Property ses, Unrecovered Plant and Regula- y Study Costs, shall be debited over period specified by the Commis- n.

. Any additional costs incurred, rel- e to the cancellation or premature rement, may be included in this ac- nt and amortized over the remain- period of the original amortization iod. Should any gains or recoveries realized relative to the cancelled or maturely retired plant, such ounts shall be used to reduce the mortized amount of the costs re- led herein.

. In the event that the recovery of s included herein is disallowed in rate proceedings, the disallowed s shall be charged to account 5, Other Deductions, or account Extraordinary Deductions, in the r of such disallowance.

Preliminary survey and investigation charges (Major only).

This account shall be charged all expenditures for preliminary eys, plans, investigations, etc., le for the purpose of determining feasibility of utility projects under emplation. If construction results, this account shall be credited and the appropriate utility plant account charged. If the work is abandoned, the charge shall be made to account 426.5, Other Deductions, or to the appropriate operating expense account.

B. This account shall also include costs of studies and analyses mandated by regulatory bodies related to plant in service. If construction results from such studies, this account shall be credited and the appropriate utility plant account charged with an equitable portion of such study costs directly attributable to new construction. The portion of such study costs not attributable to new construction or the entire cost if construction does not result shall be charged to account 182.2, Unrecovered Plant and Regulatory Costs, or the appropriate operating expense account. The costs of such studies relative to plant under construction shall be included directly in account 107, Construction Work in Progress-Electric.

C. The records supporting the entries to this account shall be so kept that the utility can furnish complete information as to the nature and the purpose of the survey, plans, or investigations and the nature and amounts of the several charges.

NOTE: The amount of preliminary survey and investigation charges transferred to utility plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to utility plant.

184 Clearing accounts (Major only).

This caption shall include undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein relate to a future period.

185 Temporary facilities (Major only).

This account shall include amounts shown by work orders for plant installed for temporary use in utility service for periods of less than one year. Such work orders shall be charged with the cost of temporary facilities and credited with payments received from customers and net salvage realized on removal of the temporary facilities. Any net credit or debit resulting shall be cleared to account 451, Miscellaneous Service Revenues.

186 Miscellaneous deferred debits.

A. For Major utilities, this account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain.

B. For Nonmajor utilities, this account shall include the following classes of items:

(1) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of utility projects under contemplation. If construction results, this account shall be credited with the amount applicable thereto and the appropriate plant accounts shall be charged with an amount which does not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to plant. If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense accounts.

(2) Undistributed balances in clearing accounts at the date of the balance sheet. Balances in clearing accounts shall be substantially cleared not later than the end of the calendar year unless items held therein related to a future period.

(3) Balances representing expenditures for work in progress other than on utility plant. This includes jobbing and contract work in progress.

(4) Other debit balances, the proper final disposition of which is uncertain and unusual or extraordinary expenses not included in other accounts, which are in process of being written off.

C. For both Major and Nonmajor utilities, the records supporting the entries to this account shall be so kept that the utility can furnish full information as to each deferred debit included herein.

187 Deferred losses from disposition of utility plant.

This account shall include losses from the sale or other disposition of property previously recorded in account 105, Electric Plant held for Future Use, under the provisions of paragraphs B, C, and D thereof, where such losses are significant and are to be amortized over a period of 5 years, unless otherwise authorized by the Commission. The amortization of the amounts in this account shall be made by debits to account 411.7, Losses from Disposition of Utility Plant. (See account 105, Electric Plant Held for Future Use.)

188 Research, development and demonstration expenditures (Major only).

A. This account shall be charged with the cost of all expenditures coming within the meaning of Research, Development and Demonstration (RD & D) of this uniform system of accounts (see definition 27.B.) except those expenditures properly chargeable to account 107, Construction Work in Progress—Electric.

B. Costs that are minor or of a general or recurring nature shall be transferred from this account to the appropriate operating expense function or if such costs are common to the overall operations or cannot be feasibly allocated to the various operating accounts, then such costs shall be recorded in account 930.2, Miscellaneous General Expenses.

C. In certain instances a company may incur large and significant research, development, and demonstration expenditures which are nonrecurring and which would distort the annual research, development, and demonstration charges for the period. In such a case the portion of such amounts that cause the distortion may be amortized to the appropriate operating expense account over a period not to exceed 5 years unless otherwise authorized by the Commission.

D. The entries in this account must be so maintained as to show separately each project along with complete detail of the nature and purpose of the research, development, and dem-

onstration project together with the
related costs.

189 Unamortized loss on reacquired debt.

This account shall include the losses
on long-term debt reacquired or re-
deemed. The amounts in this account
shall be amortized in accordance with
General Instruction 17.

90 Accumulated deferred income taxes.

A. This account shall be debited and
ccount 411.1, Provision for Deferred
ncome Taxes—Credit, Utility Operat-
ng Income, or account 411.2, Provi-
ion for Deferred Income Taxes—
Credit, Other Income and Deductions,
s appropriate, shall be credited with
n amount equal to that by which
ncome taxes payable for the year are
igher because of the inclusion of cer-
ain items in income for tax purposes,
hich items for general accounting
urposes will not be fully reflected in
he utility's determination of annual
et income until subsequent years.

B. This account shall be credited and
ccount 410.1, Provision for Deferred
come Taxes, Utility Operating
come, or account 410.2, Provision for
eferred Income Taxes, Other Income
nd Deductions, as appropriate, shall
debited with an amount equal to
at by which income taxes payable
r the year are lower because of prior
yment of taxes as provided by para-
aph A above, because of difference
timing for tax purposes of particu-
r items of income or income deduc-
ns from that recognized by the utili-
for general accounting purposes.
ch credit to this account and debit
account 410.1 or 410.2 shall, in gen-
al, represent the effect on taxes pay-
le in the current year of the smaller
ount of book income recognized for
x purposes as compared to the
ount recognized in the utility's cur-
nt accounts with respect to the item
class of items for which deferred
x accounting by the utility was au-
orized by the Commission.

. Vintage year records with respect
entries to this account, as described
ove, and the account balance, shall
so maintained as to show the factor
calculation with respect to each
nual amount of the item or class of
items for which deferred tax accounting by the utility is utilized.

D. The utility is restricted in its use of this account to the purpose set forth above. It shall not make use of the balance in this account or any portion thereof except as provided in the text of this account, without prior approval of the Commission. Any remaining deferred tax account balance with respect to an amount for any prior year's tax deferral, the amortization of which or other recognition in the utility's income accounts has been completed, or other disposition made, shall be debited to account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or account 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, or otherwise disposed of as the Commission may authorize or direct. (See General Instruction 18.)

201 Common stock issued.

202 Common stock subscribed (Major only).

203 Common stock liability for conversion (Major only).

204 Preferred stock issued.

A. These accounts shall include the par value or the stated value of stock without par value if such stock has a stated value, and, if not, the cash value of the consideration received for such nonpar stock, of each class of capital stock actually issued, including the par or stated value of such capital stock in account 124, Other Investments, and account 217, Reacquired Capital Stock.

B. When the actual cash value of the consideration received is more or less than the par or stated value of any stock having a par or stated value, the difference shall be credited or debited, as the case may be, to the premium or discount account for the particular class and series.

C. When capital stock is retired, these accounts shall be charged with the amount at which such stock is carried herein.

D. A separate ledger account, with a descriptive title, shall be maintained for each class and series of stock. The supporting records shall show the shares nominally issued, actually issued, and nominally outstanding.

NOTE: When a levy or assessment, except a call for payment on subscriptions, is made against holders of capital stock, the amount collected upon such levy or assessment shall be credited to account 207, Premium on Capital Stock (for Nonmajor utilities, account 211, Miscellaneous Paid-In Capital), provided, however, that the credit shall be made to account 213, Discount on Capital Stock, to the extent of any remaining balance of discount on the issue of stock.

205 Preferred stock subscribed (Major only).

A. These accounts shall include the amount of legally enforceable subscriptions to capital stock of the utility. They shall be credited with the par or stated value of the stock subscribed, exclusive of accrued dividends, if any. Concurrently, a debit shall be made to subscriptions to capital stock, included as a separate subdivision of account 143, Other Accounts Receivable, for the agreed price, and any discount or premium shall be debited or credited to the appropriate discount or premium account. When properly executed stock certificates have been issued representing the shares subscribed, this account shall be debited, and the appropriate capital stock account credited, with the par or stated value of such stock.

B. The records shall be kept in such manner as to show the amount of subscriptions to each class and series of stock.

206 Preferred stock liability for conversion (Major only).

A. These accounts shall include the par value or stated value, as appropriate, of capital stock which the utility has agreed to exchange for outstanding securities of other companies in connection with the acquisition of properties of such companies under terms which allow the holders of the securities of the other companies to surrender such securities and receive in return therefor capital stock of the accounting utility.

B. When the securities of the other companies have been surrendered and capital stock issued in accordance with the terms of the exchange, these accounts shall be charged and accounts 201, Common Stock Issued, or 204, Preferred Stock Issued, as the case may be, shall be credited.

C. The records shall be kept so as to show separately the stocks of each class and series for which a conversion liability exists.

207 Premium on capital stock (Major only).

A. This account shall include, in a separate subdivision for each class and series of stock, the excess of the actual cash value of the consideration received on original issues of capital stock over the par or stated value and accrued dividends of such stock, together with assessments against stockholders representing payments required in excess of par or stated values.

B. Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expenses of another issue of the same class or series.

C. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be transferred to account 210, Gain on Resale or Cancellation of Reacquired Capital Stock.

208 Donations received from stockholders (Major only).

This account shall include the balance of credits for donations received from stockholders consisting of capital stock of the utility, cancellation or reduction of debt of the utility, and the cash value of other assets received as a donation.

209 Reduction in par or stated value of capital stock (Major only).

This account shall include the balance of credits arising from a reduction in the par or stated value of capital stock.

210 Gain on resale or cancellation of reacquired capital stock (Major only).

This account shall include the balance of credits arising from the resale or cancellation of reacquired capital stock. (See account 217. Reacquired Capital Stock.)

211 Miscellaneous paid-in capital.

This account shall include the balance of all other credits for paid-in capital which are not properly includible in the foregoing accounts. This account may include all commissions and expenses incurred in connection with the issuance of capital stock. (In the case of Nonmajor companies, this account shall be kept so as to show the source of the credits includible herein.)

ITEMS (NONMAJOR ONLY)

1. Premium received on original issues of capital stock.
2. Donations received from stockholders or reduction of debt of the utility, and the cash value of other assets received as a donation.
3. Reduction in part or stated value of capital stock.
4. Gain on resale or cancellation of reacquired capital stock.

NOTE A: (Major utilities) Amounts included in capital surplus at the effective date of this system of accounts which cannot be classified as to the source thereof shall be included in this account.

NOTE B: (Nonmajor utilities) Premium on capital stock shall not be set off against expenses. Further, a premium received on an issue of a certain class or series of stock shall not be set off against expense of another issue of the same class or series.

212 Installments received on capital stock.

A. This account shall include in a separate subdivision for each class and series of capital stock the amount of installments received on capital stock on a partial or installment payment plan from subscribers who are not bound by legally enforceable subscription contracts.

B. As subscriptions are paid in full and certificates issued, this account shall be charged and the appropriate capital stock account credited with the par or stated value of such stock. Any discount or premium on an original issue shall be included in the appropriate discount or premium account.

213 Discount on capital stock.

A. This account shall include in a separate subdivision for each class and series of capital stock all discount on the original issuance and sale of capital stock, including additional capital stock of a particular class or series as well as first issues.

B. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be written off to account 210, Gain on Resale or Cancellation of Reacquired Capital Stock, provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 210.

214 Capital stock expense.

A. This account shall include in a separate subdivision for each class and series of stock all commissions and expenses incurred in connection with the original issuance and sale of capital stock, including additional capital stock of a particular class or series as well as first issues. Expenses applicable to capital stock shall not be deducted from premium on capital stock.

B. When capital stock which has been actually issued by the utility is retired the amount in this account, applicable to the shares retired shall be written off to account 210, Gain on Resale or Cancellation of Reacquired Capital Stock, provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 210.

NOTE A: Expenses in connection with the reacquisition or resale of the utility's capital stock shall not be included herein.

NOTE B: The utility may write off capital stock expense in whole or in part by charges to account 211, Miscellaneous Paid-in Capital.

215 Appropriated retained earnings.

This account shall include the amount of retained earnings which has been appropriated or set aside for specific purposes. Separate subaccounts shall be maintained under such titles as will designate the purpose for which each appropriation was made.

215.1 Appropriated retained earnings—Amortization reserve, Federal.

A. This account shall be credited with such amounts as are appropriated by a licensee from account 216, Unappropriated Retained Earnings, for amortization reserve purposes in accordance with the requirements of a hydroelectric project license.

B. This account shall be debited with only such items or amounts as the Commission may require or approve. (See account 127, Amortization Fund—Federal.)

216 Unappropriated retained earnings.

This account shall include the balances, either debit or credit, of unappropriated retained earnings arising from earnings of the utility. This account shall not include any amounts representing the undistributed earnings of subsidiary companies.

216.1 Unappropriated undistributed subsidiary earnings (Major only).

This account shall include the balances, either debit or credit, of undistributed retained earnings of subsidiary companies since their acquisition. When dividends are received from subsidiary companies relating to amounts included in this account, this account shall be debited and account 216, "Unappropriated Retained Earnings," credited.

217 Reacquired capital stock.

A. This account shall include in a separate subdivision for each class and series of capital stock, the cost of capital stock actually issued by the utility and reacquired by it and not retired or canceled, except, however, stock which is held by trustees in sinking or other funds.

B. When reacquired capital stock is retired or canceled, the difference between its cost, including commissions and expenses paid in connection with the reacquisition, and its par or stated value plus any premium and less any discount and expenses applicable to the shares retired, shall be debited or credited, as appropriate, to account 210, Gain on Resale or Cancellation of Reacquired Capital Stock, provided, however, that debits shall be charged to account 439, Adjustments to Retained Earnings, to the extent that they exceed the balance in account 210.

C. When reacquired capital stock is resold by the utility, the difference between the amount received on the resale of the stock, less expenses incurred in the resale, and the cost of the stock included in this account shall be accounted for as outlined in paragraph B.

NOTE A: See account 124, Other Investments, for permissive accounting treatment of stock reacquired under a definite plan for resale.

NOTE B: The accounting for reacquired stock shall be as prescribed herein unless otherwise specifically required by statute.

218 Noncorporate proprietorship (Nonmajor only).

This account shall include the investment in an unincorporated utility by the proprietor thereof, and shall be charged with all withdrawals from the business by its proprietor. At the end of each calendar year the net income for the year, as developed in the income account, shall be transferred to this account. (See optional accounting procedure provided in Note C hereunder.)

NOTE A: Amounts payable to the proprietor as just and reasonable compensation for services performed shall not be charged to this account but to appropriate operating expense or other accounts.

NOTE B: When the utility is owned by a partnership, a separate account shall be kept to show the net equity of each member therein and the transactions affecting the interest of each such partner.

NOTE C: This account may be restricted to the amount considered by the proprietor to be the permanent investment in the business, subject to change only by additional investment by the proprietor or the withdrawal of portions thereof not representing net income. When this option is taken, the retained earnings accounts shall be maintained and entries thereto shall be made in accordance with the texts thereof.

221 Bonds.

This account shall include in a separate subdivision for each class and series of bonds the face value of the actually issued and unmatured bonds which have not been retired or canceled; also the face value of such bonds issued by others the payment of which has been assumed by the utility.

222 Reacquired bonds (Major only).

A. This account shall include the face value of bonds actually issued or assumed by the utility and reacquired by it and not retired or canceled. The account for reacquired debt shall not include securities which are held by trustees in sinking or other funds.

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expenses or premium, and the amount paid upon reacquisition, shall be included in account 189, Unamortized Loss on Reacquired Debt, or account 257, Unamortized Gain on Reacquired Debt, as appropriate. (See General Instruction 17.)

223 Advances from associated companies.

A. This account shall include the face value of notes payable to associated companies and the amount of open book accounts representing advances from associated companies. It does not include notes and open accounts representing indebtedness subject to current settlement which are includible in account 233, Notes Payable to Associated Companies, or account 234, Accounts Payable to Associated Companies.

B. The records supporting the entries to this account shall be so kept that the utility can furnish complete information concerning each note and open account.

224 Other long-term debt.

A. This account shall include, until maturity all long-term debt not otherwise provided for. This covers such items as receivers' certificates, real estate mortgages executed or assumed, assessments for public improvements, notes and unsecured certificates of indebtedness not owned by associated companies, receipts outstanding for long-term debt, and other obligations maturing more than one year from date of issue or assumption.

B. Separate accounts shall be maintained for each class of obligation, and records shall be maintained to show for each class all details as to date of obligation, date of maturity, interest dates and rates, security for the obligation, etc.

NOTE: Miscellaneous long-term debt reacquired shall be accounted for in accordance with the procedure set forth in account 222, Reacquired Bonds.

225 Unamortized premium on long-term debt.

A. This account shall include the excess of the cash value of consideration received over the face value upon the issuance or assumption of long-term debt securities.

B. Amounts recorded in this account shall be amortized over the life of each respective issue under a plan which will distribute the amount equitably over the life of the security. The amortization shall be on a monthly basis, with the amounts thereof to be credited to account 429, Amortization of Premium on Debt—Credit. (See General Instruction 17.)

226 Unamortized discount on long-term debt—Debit.

A. This account shall include the excess of the face value of long-term debt securities over the cash value of consideration received therefor, related to the issue or assumption of all types and classes of debt.

B. Amounts recorded in this account shall be amortized over the life of the respective issues under a plan which will distribute the amount equitably over the life of the securities. The amortization shall be on a monthly basis, with the amounts thereof charged to account 428, Amortization of Debt Discount and Expense. (See General Instruction 17.)

Special Instructions for Current and Accrued Liabilities. Current and accrued liabilities are those obligations which have either matured or which become due within one year from the date thereof; except, however, bonds, receivers' certificates and similar obligations which shall be classified as long-term debt until date of maturity; accrued taxes, such as income taxes, which shall be classified as accrued liabilities even though payable more than one year from date; compensation awards, which shall be classified as current liabilities regardless of date due; and minor amounts payable in installments which may be classified as current liabilities. If a liability is due more than one year from date of issuance or assumption by the utility, it shall be credited to a long-term debt account appropriate for the transaction, except, however, the current liabilities previously mentioned.

227 Obligations under capital leases—noncurrents.

This account shall include the portion not due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, account 120.6, Nuclear Fuel under Capital Leases, or account 121, Nonutility Property.

Special instruction. No amounts shall be credited to these accounts unless authorized by a regulatory authority or authorities to be collected in a utility's rate levels.

228.1 Accumulated provision for property insurance.

A. This account shall include amounts reserved by the utility for losses through accident, fire, flood, or other hazards to its own property or property leased from others, not covered by insurance. The amounts charged to account 924, Property Insurance, or other appropriate accounts to cover such risks shall be credited to this account. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of the risks covered and the rates used.

B. Charges shall be made to this account for losses covered, not to exceed the account balance. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

228.2 Accumulated provision for injuries and damages.

A. This account shall be credited with amounts charged to account 925, Injuries and Damages, or other appropriate accounts, to meet the probable liability, not covered by insurance, for deaths or injuries to employees and others and for damages to property neither owned nor held under lease by the utility.

B. When liability for any injury or damage is admitted by the utility either voluntarily or because of the decision of a court or other lawful authority, such as a workmen's compensation board, the admitted liability shall be charged to this account and credited to the appropriate current liability account. Details of these charges shall be maintained according to the year the casualty occurred which gave rise to the loss.

NOTE: Recoveries or reimbursements for losses charged to this account shall be credited hereto; the cost of repairs to property of others if provided for herein shall be charged to this account.

228.3 Accumulated provision for pensions and benefits.

A. This account shall include provisions made by the utility and amounts contributed by employees for pensions, accident and death benefits, savings, relief, hospital and other provident purposes, where the funds are included in the assets of the utility either in general or in segregated fund accounts.

B. Amounts paid by the utility for the purposes for which this liability is established shall be charged hereto.

C. A separate account shall be kept for each kind of provision included herein.

NOTE: If employee pension or benefit plan funds are not included among the assets of the utility but are held by outside trustees, payments into such funds, or accruals therefor, shall not be included in this account.

228.4 Accumulated miscellaneous operating provisions.

A. This account shall include all operating provisions which are not provided for elsewhere.

B. This account shall be maintained in such manner as to show the amount of each separate provision and the nature and amounts of the debits and credits thereto.

NOTE: This account includes only provisions as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

229 Accumulated provision for rate refunds.

A. This account shall be credited with amounts charged to Account 449.1, Provisions for Rate Refunds, to provide for estimated refunds where the utility is collecting amounts in rates subject to refund.

B. When refund of any amount recorded in this account is ordered by a regulatory authority, such amount shall be changed hereto and credited to account 242, Miscellaneous Current and Accrued Liabilities.

C. Records supporting the entries to this account shall be kept so as to identify each amount recorded by the respective rate filing docket number.

231 Notes payable.

This account shall include the face value of all notes, drafts, acceptances, or other similar evidences of indebtedness, payable on demand or within a time not exceeding one year from date of issue, to other than associated companies.

232 Accounts payable.

This account shall include all amounts payable by the utility within one year, which are not provided for in other accounts.

233 Notes payable to associated companies.

234 Accounts payable to associated companies.

These accounts shall include amounts owing to associated companies on notes, drafts, acceptances, or other similar evidences of indebtedness, and open accounts payable on demand or not more than one year from date of issue or creation.

NOTE: Exclude from these accounts notes and accounts which are includible in account 223, Advances from Associated Companies.

235 Customer deposits.

This account shall include all amounts deposited with the utility by customers as security for the payment of bills.

236 Taxes accrued.

A. This account shall be credited with the amount of taxes accrued during the accounting period, corresponding debits being made to the appropriate accounts for tax charges. Such credits may be based upon estimates, but from time to time during the year as the facts become known, the amount of the periodic credits shall be adjusted so as to include as nearly as can be determined in each year the taxes applicable thereto. Any amount representing a prepayment of taxes applicable to the period subsequent to the date of the balance sheet, shall be shown under account 165, Prepayments.

B. If accruals for taxes are found to be insufficient or excessive, correction therefor shall be made through current tax accruals.

C. Accruals for taxes shall be based upon the net amounts payable after credit for any discounts, and shall not include any amounts for interest on tax deficiencies or refunds. Interest received on refunds shall be credited to account 419, Interest and Dividend Income, and interest paid on deficiencies shall be charged to account 431, Other Interest Expense.

D. The records supporting the entries to this account shall be kept so as to show for each class of taxes, the amount accrued, the basis for the accrual, the accounts to which charged, and the amount of tax paid.

237 Interest accrued.

This account shall include the amount of interest accrued but not matured on all liabilities of the utility not including, however, interest which is added to the principal of the debt on which incurred. Supporting records shall be maintained so as to show the amount of interest accrued on each obligation.

238 Dividends declared (Major only).

This account shall include the amount of dividends which have been declared but not paid. Dividends shall be credited to this account when they become a liability.

239 Matured long-term debt (Major only).

This account shall include the amount of long-term debt (including any obligation for premiums) matured and unpaid, without specific agreement for extension of the time of payment and bonds called for redemption but not presented.

240 Matured interest (Major only).

This account shall include the amount of matured interest on long-term debt or other obligations of the utility at the date of the balance sheet unless such interest is added to the principal of the debt on which incurred.

241 Tax collections payable (Major only).

This account shall include the amount of taxes collected by the utility through payroll deductions or otherwise pending transmittal of such taxes to the proper taxing authority.

NOTE: Do not include liability for taxes assessed directly against the utility which are accounted for as part of the utility's own tax expense.

242 Miscellaneous current and accrued liabilities.

This account shall include the amount of all other current and accrued liabilities not provided for elsewhere appropriately designated and supported so as to show the nature of each liability.

ITEMS (NONMAJOR ONLY)

1. Dividends declared but not paid.
2. Matured long-term debt.
3. Matured interest.
4. Taxes collected through payroll deductions or otherwise pending transmittal to the proper taxing authority.

243 Obligations under capital leases—current.

This account shall include the portion, due within one year, of the obligations recorded for the amounts applicable to leased property recorded as assets in account 101.1, Property under Capital Leases, account 120.6, Nuclear Fuel under Capital Leases (Major only), or account 121, Nonutility Property.

251 [Reserved]

252 Customer advances for construction.

This account shall include advances by customers for construction which are to be refunded either wholly or in part. When a customer is refunded the entire amount to which he is entitled, according to the agreement or rule under which the advance was made, the balance, if any, remaining in this account shall be credited to the respective plant account.

253 Other deferred credits.

This account shall include advance billings and receipts and other deferred credit items, not provided for elsewhere, including amounts which cannot be entirely cleared or disposed of until additional information has been received.

255 Accumulated deferred investment tax credits.

A. This account shall be credited with all investment tax credits deferred by companies which have elected to follow deferral accounting, partial or full, rather than recognizing in the income statement the total benefits of the tax credit as realized. After such election, a company may not transfer amounts from this account, except as authorized herein and in accounts 411.4, Investment Tax Credit Adjustments, Utility Operations, 411.5, Investment Tax Credit Adjustments, Nonutility Operations, and 420, Investment Tax Credits, or with approval of the Commission.

B. Where the company's accounting provides that investment tax credits are to be passed on to customers, this account shall be debited and account 411.4 credited with a proportionate amount determined in relation to the average useful life of electric utility property to which the tax credits relate or such lesser period of time as allowed by a regulatory agency having rate jurisdiction. If, however, the deferral procedure provides that investment tax credits are not to be passed on to customers, the proportionate restorations to income shall be credited to account 420.

C. Subdivisions of this account by department shall be maintained for deferred investment tax credits that are related to nonelectric utility or other operations. Contra entries affecting such account subdivisions shall be appropriately recorded in account 413, Expenses of Electric Plant Leased to Others; or account 414, Other Utility Operating Income. Use of deferral or nondeferral accounting procedures adopted for nonelectric utility or other operations are to be followed on a consistent basis.

D. Separate records for electric and nonelectric utility or other operations shall be maintained identifying the properties giving rise to the investment tax credits for each year with the weighted-average service life of such properties and any unused balances of such credits. Such records are not necessary unless the tax credits are deferred.

256 Deferred gains from disposition of utility plant.

This account shall include gains from the sale or other disposition of property previously recorded in account 105, Electric Plant Held for Future Use, under the provisions of paragraphs B, C, and D thereof, where such gains are significant and are to be amortized over a period of 5 years, unless otherwise authorized by the Commission. The amortization of the amounts in this account shall be made by credits to account 411.6, Gains from Disposition of Utility Plant. (See account 105, Electric Plant Held for Future Use.)

257 Unamortized gain on reacquired debt.

This account shall include the amounts of discount realized upon reacquisition or redemption of long-term debt. The amounts in this account shall be amortized in accordance with General Instruction 17.

SPECIAL INSTRUCTIONS

Accumulated Deferred Income Taxes

Before using the deferred tax accounts provided below refer to General Instruction 18. *Comprehensive Interperiod Income Tax Allocation.*

The text of these accounts are designed primarily to cover deferrals of Federal income taxes. However, they are also to be used when making deferrals of state and local income taxes. Public utilities and licensees which, in addition to an electric utility department, have another utility department, gas, water, etc., and nonutility property and which have deferred taxes on income with respect thereto shall separately classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility Deductions.

281 Accumulated deferred income taxes—Accelerated amortization property.

A. This account shall include tax deferrals resulting from adoption of the principles of comprehensive interperiod tax allocation described in General Instruction 18 of this system of accounts that relate to property for which the utility has availed itself of the use of accelerated (5-year) amortization of (1) certified defense facilities as permitted by Section 168 of the Internal Revenue Code and (2) certified pollution control facilities as permitted by Section 169 of the Internal Revenue Code.

B. This account shall be credited and accounts 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with tax effects related to property described in paragraph A above where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

C. This account shall be debited and accounts 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with tax effects related to property described in paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission. Upon the disposition by sale exchange, transfer, abandonment or premature retirement of plant on which there is a related balance herein, this account shall be charged with an amount equal to the related income tax expense, if any, arising from such disposition and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited. When the remaining balance, after consideration of any related income tax expense, is less than $25,000, this account shall be charged and account 411.1 or 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of $25,000 or more, the Commission shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accounting is granted. When plant is disposed of by transfer to a wholly owned subsidiary the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balances would be necessary to be retained to offset future group item tax deficiencies.

282 Accumulated deferred income taxes—Other property.

A. This account shall include the tax deferrals resulting from adoption of the principle of comprehensive interperiod income tax allocation described in General Instruction 18 of this system of accounts which are related to all property other than accelerated amortization property.

B. This account shall be credited and accounts 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with tax effects related to property described in paragraph A above where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

C. This account shall be debited and accounts 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with tax effects related to property described in paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission. Upon the disposition by sale, exchange, transfer, abandonment or premature retirement of plant on which there is a related balance herein, this account shall be charged with an amount equal to the related income tax expense, if any, arising from such disposition and account 411.1, Income Taxes Deferred in Prior Years—Credit, Utility Operating Income, or 411.2, Income Taxes Deferred in Prior Years—Credit, Other Income and Deductions, shall be credited. When the remaining balance after consideration of any related tax expenses, is less than $25,000, this account shall be charged and account 411.1 or 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of $25,000 or more, the Commission shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accountng is granted. When plant disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When he disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account f it can be determined that the related balance would be necessary to be etained to offset future group item ax deficiencies.

83 Accumulated deferred income taxes—Other.

A. This account shall include all redit tax deferrals resulting from the doption of the principles of comprehensive interperiod income tax allocaion described in General Instruction 8 of this system of accounts other han those deferrals which are includble in Accounts 281, Accumulated Deerred Income Taxes—Accelerated mortization Property and 282, Accumulated Deferred Income Taxes—Other Property.

B. This account shall be credited and ccounts 410.1 Provision for Deferred ncome Taxes, Utility Operating ncome, or 410.2, Provision for Deerred Income Taxes, Other Income nd Deductions, as appropriate, shall e debited with tax effects related to tems described in paragraph A above where taxable income is lower than pretax accounting income due to diferences between the periods in which evenue and expense transactions ffect taxable income and the periods n which they enter into the determiation of pretax accounting income.

C. This account shall be debited and ccounts 411.1, Provision for Deferred ncome Taxes--Credit, Utility Operating Income or 411.2, Provision for Deerred Income Taxes—Credit, Other ncome and Deductions, as appropritе, shall be credited with tax effects related to items described in paragraph A above where taxable income is higher than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.

D. Records with respect to entries to this account, as described above, and the account balance, shall be so maintained as to show the factors of calculation with respect to each annual amount of the item or class of items.

E. The utility is restricted in its use of this account to the purposes set forth above. It shall not transfer the balance in the account or any portion thereof to retained earnings or to any other account or make any use thereof except as provided in the text of this account, without prior approval of the Commission. Upon the disposition by sale, exchange, transfer, abandonment or premature retirement of items on which there is a related balance herein, this account shall be charged with an amount equal to the related income tax effect, if any, arising from such disposition and account 411.1, Provision For Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision For Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited. When the remaining balance, after consideration of any related tax expenses, is less than $25,000, this account shall be charged and account 411.1 or 411.2, as appropriate, credited with such balance. If after consideration of any related income tax expense, there is a remaining amount of $25,000 or more, the Commission shall authorize or direct how such amount shall be accounted for at the time approval for the disposition of accounting is granted.

When plant is disposed of by transfer to a wholly owned subsidiary, the related balance in this account shall also be transferred. When the disposition relates to retirement of an item or items under a group method of depreciation where there is no tax effect in the year of retirement, no entries are required in this account if it can be determined that the related balance would be necessary to be retained to offset future group item tax deficiencies.

Electric Plant Chart of Accounts

1. INTANGIBLE PLANT

301 Organization.
302 Franchises and consents.
303 Miscellaneous intangible plant.

2. PRODUCTION PLANT

A. STEAM PRODUCTION

310 Land and land rights.
311 Structures and improvements.
312 Boiler plant equipment.
313 Engines and engine-driven generators.
314 Turbogenerator units.
315 Accessory electric equipment.
316 Miscellaneous power plant equipment

B. NUCLEAR PRODUCTION

320 Land and land rights (Major only).
321 Structures and improvements (Major only).
322 Reactor plant equipment (Major only).
323 Turbogenerator units (Major only).
324 Accessory electric equipment (Major only).
325 Miscellaneous power plant equipment (Major only).

C. HYDRAULIC PRODUCTION

330 Land and land rights.
331 Structures and improvements.
332 Reservoirs, dams, and waterways.
333 Water wheels, turbines and generators.
334 Accessory electric equipment.
335 Miscellaneous power plant equipment.
336 Roads, railroads and bridges.

D. OTHER PRODUCTION

340 Land and land rights.
341 Structures and improvements.
342 Fuel holders, producers, and accessories.
343 Prime movers.
344 Generators.
345 Accessory electric equipment.
346 Miscellaneous power plant equipment.

3. TRANSMISSION PLANT

350 Land and land rights.
351 [Reserved]
352 Structures and improvements.
353 Station equipment.
354 Towers and fixtures.
355 Poles and fixtures.
356 Overhead conductors and devices.
357 Underground conduit.
358 Underground conductors and devices.
359 Roads and trails.

4. DISTRIBUTION PLANT

360 Land and land rights.
361 Structures and improvements.
362 Station equipment.
363 Storage battery equipment.
364 Poles, towers and fixtures.
365 Overhead conductors and devices
366 Underground conduit.
367 Underground conductors and devices
368 Line transformers.
369 Services.
370 Meters.
371 Installations on customers' premises
372 Leased property on customers' premises.
373 Street lighting and signal systems.

5. GENERAL PLANT

389 Land and land rights.
390 Structures and improvements.
391 Office furniture and equipment.
392 Transportation equipment.
393 Stores equipment.
394 Tools, shop and garage equipment.
395 Laboratory equipment.
396 Power operated equipment.
397 Communication equipment.
398 Miscellaneous equipment.
399 Other tangible property.

Electric Plant Accounts

301 Organization.

This account shall include all fees paid to federal or state governments for the privilege of incorporation and expenditures incident to organizing the corporation, partnership, or other enterprise and putting it into readiness to do business.

ITEMS

1. Cost of obtaining certificates authorizing an enterprise to engage in the public utility business.
2. Fees and expenses for incorporation
3. Fees and expenses for mergers or consolidations.
4. Office expenses incident to organizing the utility.
5. Stock and minute books and corporate seal.

NOTE A: This account shall not include any discounts upon securities issued or assumed; nor shall it include any costs incident to negotiating loans, selling bonds or other evidences of debt or expenses in connection with the authorization, issuance or sale of capital stock.

NOTE B: Exclude from this account and include in the appropriate expense account the cost of preparing and filing papers in connection with the extension of the term of incorporation unless the first organization costs have been written off. When charges are made to this account for expenses incurred in mergers, consolidations, or reorganizations, amounts previously included herein or in similar accounts in the books of the companies concerned shall be excluded from this account.

302 Franchises and consents.

A. This account shall include amounts paid to the federal government, to a state or to a political subdivision thereof in consideration for franchises, consents, water power licenses, or certificates, running in perpetuity or for a specified term of more than one year, together with necessary and reasonable expenses incident to procuring such franchises, consents, water power licenses, or certificates of permission and approval, including expenses of organizing and merging separate corporations, where statutes require, solely for the purpose of acquiring franchises.

B. If a franchise, consent, water power license or certificate is acquired by assignment, the charge to this account in respect thereof shall not exceed the amount paid therefor by the utility to the assignor, nor shall it exceed the amount paid by the original grantee, plus the expense of acquisition to such grantee. Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 111, Accumulated Provision for Amortization of Electric Utility Plant (for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant), as appropriate.

D. Records supporting this account shall be kept so as to show separately the book cost of each franchise or consent.

NOTE: Annual or other periodic payments under franchises shall not be included herein but in the appropriate operating expense account.

303 Miscellaneous intangible plant.

A. This account shall include the cost of patent rights, licenses, privileges, and other intangible property necessary or valuable in the conduct of utility operations and not specifically chargeable to any other account.

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111, Accumulated Provision for Amortization of Electric Utility Plant (for Nonmajor utilities, account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant), as appropriate.

C. This account shall be maintained in such a manner that the utility can furnish full information with respect to the amounts included herein.

310 Land and land rights.

This account shall include the cost of land and land rights used in connection with steam-power generation. (See electric plant instruction 7.)

311 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with steam-power generation. (See electric plant instruction 8.)

NOTE: Include steam production roads and railroads in this account.

312 Boiler plant equipment.

This account shall include the cost installed of furnaces, boilers, coal and ash handling and coal preparing equipment, steam and feed water piping, boiler apparatus and accessories used in the production of steam, mercury, or other vapor, to be used primarily for generating electricity.

ITEMS

1. Ash handling equipment, including hoppers, gates, cars, conveyors, hoists, sluicing equipment, including pumps and motors, sluicing water pipe and fittings, sluicing trenches and accessories, etc., except sluices which are a part of a building.
2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps,

surge tanks, feed water regulators, feed water measuring equipment, and all associated drives.

3. Boiler plant cranes and hoists and associated drives.

4. Boilers and equipment, including boilers and baffles, economizers, superheaters, soot blowers, foundations and settings, water walls, arches, grates, insulation, blow-down system, drying out of new boilers, also associated motors or other power equipment.

5. Breeching and accessories, including breeching, dampers, soot spouts, hoppers and gates, cinder eliminators, breeching insulation, soot blowers and associated motors.

6. Coal handling and storage equipment, including coal towers, coal lorries, coal cars, locomotives and tracks when devoted principally to the transportation of coal, hoppers, downtakes, unloading and hoisting equipment, skip hoists and conveyors, weighing equipment, magnetic separators, cable ways, housings and supports for coal handling equipment.

7. Draft equipment, including air preheaters and accessories, induced and forced draft fans, air ducts, combustion control mechanisms, and associated motors or other power equipment.

8. Gas-burning equipment, including holders, burner equipment and piping, control equipment, etc.

9. Instruments and devices, including all measuring, indicating, and recording equipment for boiler plant service together with mountings and supports.

10. Lighting systems.

11. Oil-burning equipment, including tanks, heaters, pumps with drive, burner equipment and piping, control equipment, etc.

12. Pulverized fuel equipment, including pulverizers, accessory motors, primary air fans, cyclones and ducts, dryers, pulverized fuel bins, pulverized fuel conveyors and equipment, burners, burner piping, priming equipment, air compressors, motors, etc.

13. Stacks, including foundations and supports, stack steel and ladders, stack brick work, stack concrete, stack lining, stack painting (first), when set on separate foundations, independent of substructure or superstructure of building.

14. Station piping, including pipe, valves, fittings, separators, traps, desuperheaters, hangers, excavation, covering, etc., for station piping system, including all steam, condensate, boiler feed and water supply piping, etc., but not condensing water, plumbing, building heating, oil, gas, air piping or piping specifically provided for in account 313.

15. Stoker or equivalent feeding equipment, including stokers and accessory motors, clinker grinders, fans and motors, etc.

16. Ventilating equipment.

17. Water purification equipment, including softeners and accessories, evaporators and accessories, heat exchangers, filters, tanks for filtered or softened water, pumps, motors, etc.

18. Water-supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes and tunnels not a part of a building.

19. Wood fuel equipment, including hoppers, fuel hogs and accessories, elevators and conveyors, bins and gates, spouts, measuring equipment and associated drives.

NOTE: When the system for supplying boiler or condenser water is elaborate, as when it includes a dam, reservoir, canal, pipe line, cooling ponds, or where gas or oil is used as a fuel for producing steam and is supplied through a pipe line system owned by the utility, the cost of such special facilities shall be charged to a subdivision of account 311, Structures and Improvements.

313 Engines and engine-driven generators.

This account shall include the cost installed of steam engines, reciprocating or rotary, and their associated auxiliaries; and engine-driven main generators, except turbogenerator units.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.

2. Belting, shafting, pulleys, reduction gearing, etc.

3. Circulating pumps, including connections between condensers and intake and discharge tunnels.

4. Cooling system, including towers, pumps, tank, and piping.

5. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.

6. Cranes, hoists, etc., including items wholly identified with items listed herein.

7. Engines, reciprocating or rotary.

8. Fire-extinguishing systems.

9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.

10. Generators—Main, a.c. or d.c., including field rheostats and connections for self-excited units, and excitation systems when identified with the generating unit.

11. Governors.

12. Lighting systems.

13. Lubricating systems including gauges, filters, tanks, pumps, piping, motors, etc.

14. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
15. Piping—main exhaust, including connections between generator and condenser and between condenser and hotwell.
16. Piping—main steam, including connections from main throttle valve to turbine inlet.
17. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
18. Pressure oil system, including accumulators, pumps, piping, motors, etc.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of a structure.
21. Water screens, motors, etc.

314 Turbogenerator units.

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.
2. Circulating pumps, including connections between condensers and intake and discharge tunnels.
3. Condensers, including condensate pumps, air and vacuum pumps, ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.
4. Generator hydrogen, gas piping and detrainment equipment.
5. Cooling system, including towers, pumps, tanks, and piping.
6. Cranes, hoists, etc., including items wholly identified with items listed herein.
7. Excitation system, when identified with main generating units.
8. Fire-extinguishing systems.
9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.
10. Governors.
11. Lighting systems.
12. Lubricating systems, including gauges, filters, water separators, tanks, pumps, piping, motors, etc.
13. Mechanical meters, including gauges, recording instruments, sampling and testing equipment.
14. Piping—main exhaust, including connections between turbogenerator and condenser and between condenser and hotwell.
15. Piping—main steam, including connections from main throttle valve to turbine inlet.
16. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
17. Pressure oil systems, including accumulators, pumps, piping, motors, etc.
18. Steelwork, specially constructed for apparatus listed herein.
19. Throttle and inlet valve.
20. Tunnels, intake and discharge, for condenser system, when not a part of structure, water screens, etc.
21. Turbogenerators—main, including turbine and generator, field rheostats and electric connections for self-excited units.
22. Water screens, motors, etc.
23. Moisture separator for turbine steam.
24. Turbine lubricating oil (initial charge).

315 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by steam power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housing, protective screens, etc.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads grounding switch, etc., special housings, protective screens, etc.
4. Station buses including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective

relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, special fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, doors, etc.

NOTE A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purposes of transmission or distribution.

NOTE B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

316 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the steam generating plant devoted to general station use, and which is not properly includible in any of the foregoing steam-power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.

2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.

3. Fire-extinguishing equipment for general station use.

4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

5. Locomotive cranes not includible elsewhere.

6. Locomotives not includible elsewhere.

7. Marine equipment, including boats, barges, etc.

8. Miscellaneous belts, pulleys, countershafts, etc.

9. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.

10. Railway cars not includible elsewhere.

11. Refrigerating systems, including compressors, pumps, cooling coils, etc.

12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.

13. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

320 Land and land rights (Major only).

This account shall include the cost of land and land rights used in connection with nuclear power generation. (See electric plant instruction 7.)

321 Structures and improvements (Major only).

This account shall include the cost in place of structures and improvements used and useful in connection with nuclear power generation. (See electric plant instruction 8.)

NOTE: Include vapor containers and nuclear production roads and railroads in this account.

322 Reactor plant equipment (Major only).

This account shall include the installed cost of reactors, reactor fuel handling and storage equipment, pressurizing equipment, coolant charging equipment, purification and discharging equipment, radioactive waste treatment and disposal equipment, boilers, steam and feed water piping, reactor and boiler apparatus and accessories and other reactor plant equipment used in the production of steam to be used primarily for generating electricity, including auxiliary superheat boilers and associated equipment in systems which change temperatures or pressure of steam from the reactor system.

ITEMS

1. Auxiliary superheat boilers and associated fuel storage handling preparation and burning equipment, etc. (See account 312 Boiler Plant Equipment, for items, but exclude water supply, water flow lines, and steam lines, as well as other equipment not strictly within the superheat function.)

2. Boiler feed system, including feed water heaters, evaporator condensers, heater drain pumps, heater drainers, deaerators, and vent condensers, boiler feed pumps, surge tanks, feed water regulators, feed water measuring equipment, and all associated drivers.

3. Boilers and heat exchangers.

4. Instruments and devices, including all measuring, indicating, and recording equipment for reactor and boiler plant service together with mountings and supports.

5. Lighting systems.

6. Moderators, such as heavy water, graphite, etc., initial charge.

7. Reactor coolant; primary and secondary systems (initial charge).

8. Radioactive waste treatment and disposal equipment, including tanks, ion exchangers, incinerators, condensers, chimneys, and diluting fans and pumps.

9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.

10. Reactor including shielding, control rods and mechanisms.

11. Reactor fuel handling equipment, including manipulating and extraction tools, underwater viewing equipment, seal cutting and welding equipment, fuel transfer equipment and fuel disassembly machinery.

12. Reactor fuel element failure detection system.

13. Reactor emergency poison container and injection system.

14. Reactor pressurizing and pressure relief equipment, including pressurizing tanks and immersion heaters.

15. Reactor coolant or moderator circulation charging, purification, and discharging equipment, including tanks, pumps, heat exchangers, demineralizers, and storage.

16. Station piping, including pipes, valves, fittings, separators, traps, desuperheaters, hangers, excavation, covering, etc., for station piping system, including all-reactor coolant, steam, condensate, boiler feed and water supply piping, etc., but not condensing water, plumbing, building heating, oil, gas, or air piping.

17. Ventilating equipment.

18. Water purification equipment, including softeners, demineralizers, and accessories, evaporators and accessories, heat exchangers, filters, tanks for filtered or softened water, pumps, motors, etc.

19. Water supply systems, including pumps, motors, strainers, raw-water storage tanks, boiler wash pumps, intake and discharge pipes and tunnels not a part of a building.

20. Reactor plant cranes and hoists, and associated drives.

NOTE: When the system for supplying boiler or condenser water is elaborate, as when it includes a dam, reservoir, canal, pipe lines, or cooling ponds, the cost of such special facilities shall be charged to a subdivision of account 321, Structures and Improvements.

323 Turbogenerator units (Major only).

This account shall include the cost installed of main turbine-driven units and accessory equipment used in generating electricity by steam.

ITEMS

1. Air cleaning and cooling apparatus, including blowers, drive equipment, air ducts not a part of building, louvers, pumps, hoods, etc.

2. Circulating pumps, including connections between condensers, and intake and discharge tunnels.

3. Condensers, including condensate pumps, air and vacuum pumps ejectors, unloading valves and vacuum breakers, expansion devices, screens, etc.

4. Generator hydrogen gas piping system and hydrogen detrainment equipment, and bulk hydrogen gas storage equipment.

5. Cooling system, including towers, pumps, tanks and piping.

6. Cranes, hoists, etc., including items wholly identified with items listed herein.

7. Excitation system, when identified with main generating units.

8. Fire extinguishing systems.

9. Foundations and settings, especially constructed for and not expected to outlast the apparatus for which provided.

10. Governors.

11. Lighting systems.

12. Lubricating systems, including gauges filters, water separators, tanks, pumps, piping motors, etc.

13. Mechanical meters, including gauges recording instruments, sampling and testing equipment.

14. Piping—main exhaust, including connections between turbogenerator and condenser and between condenser and hotwell.

15. Piping—main steam, including connections from main throttle valve to turbine inlet.

16. Platforms, railings, steps, gratings, etc. appurtenant to apparatus listed herein.

17. Pressure oil systems, including accumulators, pumps, piping, motors, etc.

18. Steelwork, specially constructed for apparatus listed herein.

19. Throttle and inlet valve.

20. Tunnels, intake and discharge, for condenser system, when not a part of structure water screens, etc.

21. Turbogenerators—main, including turbine and generator, field rheostats and electric connections for self-excited units.

22. Water screens, motors, etc.

23 Moisture separators for turbine steam.

24. Turbine lubricating oil (initial charge).

324 Accessory electric equipment (Major only).

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by nuclear power, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which they are associated is included.

NOTE: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

ITEMS

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.

2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housing, protective screens, etc.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, etc., special housings, protective screens, etc.

4. Station buses, including main, auxiliary, transfer, synchronizing and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station grounding system, fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature recording devices, frequency-control equipment, master clocks, watt-hour meters and synchronoscope in the turbine room, station totalizing wattmeter, boiler-room load indicator equipment, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housing for batteries, protective screens, doors, etc.

NOTE: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

325 Miscellaneous power plant equipment (Major only).

This account shall include the cost installed of miscellaneous equipment in and about the nuclear generating plant devoted to general station use and which is not properly includible in any of the foregoing nuclear power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.

2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.

3. Fire-extinguishing equipment for general station and site use.

4. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

5. Locomotive cranes not includible elsewhere.

6. Locomotives not included elsewhere.

7. Marine equipment, including boats, barges, etc.

8. Miscellaneous belts, pulleys, countershafts, etc.

9. Miscellaneous equipment, including atmospheric and weather recording devices,

intrasite communication equipment, laboratory equipment, signal systems, callophones emergency whistles and sirens, fire alarms, insect-control equipment, and other similar equipment.

10. Railway cars or special shipping containers not includible elsewhere.

11. Refrigerating systems, including compressors, pumps, cooling coils, etc.

12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.

13. Ventilating equipment, including items wholly identified with apparatus listed herein.

14. Station and area radiation monitoring equipment.

NOTE: When any item of equipment listed herein is wholly used in connection with equipment included in another account, its cost shall be included in such other account.

330 Land and land rights.

This account shall include the cost of land and land rights used in connection with hydraulic power generation. (See electric plant instruction 7.) For Major utilities, it shall also include the cost of land and land rights used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

331 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with hydraulic power generation. (See electric plant instruction 8.) For Major utilities, it shall also include the cost in place of structures and improvements used in connection with (1) the conservation of fish and wildlife, and (2) recreation. Separate subaccounts shall be maintained for each of the above.

332 Reservoirs, dams, and waterways.

This account shall include the cost in place of facilities used for impounding, collecting, storage, diversion, regulation, and delivery of water used primarily for generating electricity. For Major utilities, it shall also include the cost in place of facilities used in connection with (a) the conservation of fish and wildlife, and (b) recreation. Separate subaccounts shall be maintained for each of the above. (See electric plant instruction 8C.)

Items

1. Bridges and culverts (when not a part of roads or railroads).

2. Clearing and preparing land.

3. Dams, including wasteways, spillways, flash boards, spillway gates with operating and control mechanisms, tunnels, gate houses, and fish ladders.

4. Dikes and embankments.

5. Electric system, including conductors control system, transformers, lighting fixtures, etc.

6. Excavation, including shoring, bracing, bridging, refill, and disposal of excess excavated material.

7. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.

8. Intakes, including trash racks, rack cleaners, control gates and valves with operating mechanisms, and intake house when not a part of station structure.

9. Platforms, railings, steps, gratings, etc., appurtenant to structures listed herein.

10. Power line wholly identified with items included herein.

11. Retaining walls.

12. Water conductors and accessories, including canals, tunnels, flumes, penstocks pipe conductors, forebays, tailraces, navigation locks and operating mechanisms, water-hammer and surge tanks, and supporting trestles and structures.

13. Water storage reservoirs, including dams, flashboards, spillway gates and operating mechanisms, inlet and outlet tunnels, regulating valves and valve towers, silt and mud sluicing tunnels with valve or gate towers, and all other structures wholly identified with any of the foregoing items.

333 Water wheels, turbines and generators.

This account shall include the cost installed of water wheels and hydraulic turbines (from connection with penstock or flume to tailrace) and generators driven thereby devoted to the production of electricity by water power or for the production of power for industrial or other purposes, if the equipment used for such purposes is a part of the hydraulic power plant works.

Items

1. Exciter water wheels and turbines, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.

2. Fire-extinguishing equipment.

3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.

4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, air ducts, etc.

5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.

6. Lighting systems.

7. Lubricating systems, including gauges, filters, tanks, pumps, piping, etc.

8. Main penstock valves and appurtenances, including main valves, control equipment, bypass valves and fittings, and other accessories.

9. Main turbines and water wheels, including runners, gates, governors, pressure regulators, oil pumps, operating mechanisms, scroll cases, draft tubes, and draft-tube supports.

10. Mechanical meters and recording instruments.

11. Miscellaneous water-wheel equipment, including gauges, thermometers, meters, and other instruments.

12. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.

13. Scroll case filling and drain system, including gates, pipe, valves, fittings, etc.

14. Water-actuated pressure-regulator system, including tanks and housings, pipes, valves, fittings and insulations, piers and anchorage, and excavation and backfill.

334 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced by hydraulic power and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts, such motors being included in the account in which the equipment with which they are associated is included.

Items

1. Auxiliary generators, including boards, compartments, switching equipment, control equipment, and connections to auxiliary power bus.

2. Excitation system, including motor, turbine, and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housings, protective screens, etc.

3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch, etc., special housings, protective screens, etc.

4. Station buses, including main, auxiliary, transfer, synchronizing, and fault ground buses, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors starting transformers, current transformers, potential transformers, protective relays, storage batteries, and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special fire-extinguishing system, and test equipment.

5. Station control system, including station switchboards with panel wiring panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, truck type boards complete, cubicles, station supervisory control devices, frequency control equipment, master clocks, watt-hour meter, station totalizing watt-meter, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit, switchboards, batteries, special housings for batteries, protective screens, doors, etc.

Note A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electricity for the purpose of transmission or distribution.

Note B: When any item of equipment listed herein is used wholly to furnish power to equipment, it shall be included in such equipment account.

335 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the hydroelectric generating plant which is devoted to general station use and is not properly includible in other hydraulic production accounts. For Major utilities, it shall also include the cost of equipment used in connection with (a) the conservation of fish and wildlife, and (b) recreation. Separate subaccounts shall be maintained for each of the above.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
5. Locomotive cranes not includible elsewhere.
6. Locomotives not includible elsewhere.
7. Marine equipment, including boats, barges, etc.
8. Miscellaneous belts, pulleys, countershafts, etc.
9. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, insect control equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.
10. Railway cars, not includible elsewhere.
11. Refrigerating system, including compressors, pumps, cooling coils, etc.
12. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.
13. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment, listed herein is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

336 Roads, railroads and bridges.

This account shall include the cost of roads, railroads, trails, bridges, and trestles used primarily as production facilities. It includes also those roads, etc., necessary to connect the plant with highway transportation systems, except when such roads are dedicated to public use and maintained by public authorities.

ITEMS

1. Bridges, including foundations, piers, girders, trusses, flooring, etc.
2. Clearing land.
3. Railroads, including grading, ballast, ties, rails, culverts, hoists, etc.
4. Roads, including grading, surfacing, culverts, etc.
5. Structures, constructed and maintained in connection with items listed herein.
6. Trails, including grading, surfacing, culverts, etc.
7. Trestles, including foundations, piers girders, trusses, flooring, etc.

NOTE A: Roads intended primarily for connecting employees' houses with the power plant, and roads used primarily in connection with fish and wildlife, and recreation activities, shall not be included herein but in account 331, Structures and Improvements.

NOTE B: The cost of temporary roads, bridges, etc. necessary during the period of construction but abandoned or dedicated to public use upon completion of the plant, shall not be included herein but shall be charged to the accounts appropriate for the construction.

340 Land and land rights.

This account shall include the cost of land and land rights used in connection with other power generation. (See electric plant instruction 7.)

341 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with other power generation. (See electric plant instruction 8.)

342 Fuel holders, producers, and accessories.

This account shall include the cost installed of fuel handling and storage equipment used between the point of fuel delivery to the station and the intake pipe through which fuel is directly drawn to the engine, also the cost of gas producers and accessories devoted to the production of gas for use in prime movers driving main electric generators.

ITEMS

1. Blower and fans.
2. Boilers and pumps.
3. Economizers.
4. Exhauster outfits.
5. Flues and piping.
6. Pipe system.
7. Producers.
8. Regenerators.
9. Scrubbers.
10. Steam injectors.
11. Tanks for storage of oil, gasoline, etc
12. Vaporizers.

343 Prime movers.

This account shall include the cost installed of Diesel or other prime movers devoted to the generation of electric energy, together with their auxiliaries.

ITEMS

1. Air-filtering system.
2. Belting, shafting, pulleys, reduction gearing, etc.
3. Cooling system, including towers, pumps, tanks, and piping.
4. Cranes, hoists, etc., including items wholly identified with apparatus listed herein.
5. Engines, Diesel, gasoline, gas, or other internal combustion.
6. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
7. Governors.
8. Ignition system.
9. Inlet valve.
10. Lighting systems.
11. Lubricating systems, including filters, tanks, pumps, and piping.
12. Mechanical meters, including gauges, recording instruments, sampling, and testing equipment.
13. Mufflers.
14. Piping.
15. Starting systems, compressed air, or other, including compressors and drives, tanks, piping, motors, boards and connections, storage tanks, etc.
16. Steelwork, specially constructed for apparatus listed herein.
17. Waste heat boilers, antifluctuators, etc.

344 Generators.

This account shall include the cost installed of Diesel or other power driven main generators.

ITEMS

1. Cranes, hoists, etc., including items wholly identified with such apparatus.
2. Fire-extinguishing equipment.
3. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
4. Generator cooling system, including air cooling and washing apparatus, air fans and accessories, air ducts, etc.
5. Generators—main, a.c. or d.c., including field rheostats and connections for self-excited units and excitation system when identified with the generating unit.
6. Lighting systems.
7. Lubricating system, including tanks, filters, strainers, pumps, piping, coolers, etc.
8. Mechanical meters, and recording instruments.
9. Platforms, railings, steps, gratings, etc. appurtenant to apparatus listed herein.

NOTE: If prime movers and generators are so integrated that it is not practical to classify them separately, the entire unit may be included in account 344, Generators.

345 Accessory electric equipment.

This account shall include the cost installed of auxiliary generating apparatus, conversion equipment, and equipment used primarily in connection with the control and switching of electric energy produced in other power generating stations, and the protection of electric circuits and equipment, except electric motors used to drive equipment included in other accounts. Such motors shall be included in the account in which the equipment with which it is associated is included.

ITEMS

1. Auxiliary generators, including boards compartments, switching equipment, control equipment, and connections to auxiliary power bus.
2. Excitation system, including motor, turbine and dual-drive exciter sets and rheostats, storage batteries and charging equipment, circuit breakers, panels and accessories, knife switches and accessories, surge arresters, instrument shunts, conductors and conduit, special supports for conduit, generator field and exciter switch panels, exciter bus tie panels, generator and exciter rheostats, etc., special housings, protective screens, etc.
3. Generator main connections, including oil circuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, current transformers, potential transformers, protective relays, isolated panels and equipment, conductors and conduit, special supports for generator main leads, grounding switch etc., special housing, protective screens, etc.
4. Station control system, including station switchboards with panel wiring, panels with instruments and control equipment only, panels with switching equipment mounted or mechanically connected, trunk-type boards complete, cubicles, station supervisory control boards, generator and exciter signal stands, temperature-recording devices, frequency control equipment, master clocks, watt-hour meter, station totalizing wattmeter, storage batteries, panels and charging sets, instrument transformers for supervisory metering, conductors and conduit, special supports for conduit.

switchboards, batteries, special housing for batteries, protective screens, doors, etc.

5. Station buses, including main, auxiliary transfer, synchronizing and fault ground buses, including oil curcuit breakers and accessories, disconnecting switches and accessories, operating mechanisms and interlocks, reactors and accessories, voltage regulators and accessories, compensators, resistors, starting transformers, current transformers, potential transformers, protective relays, storage batteries and charging equipment, isolated panels and equipment, conductors and conduit, special supports, special housings, concrete pads, general station ground system, special fire-extinguishing system, and test equipment.

NOTE A: Do not include in this account transformers and other equipment used for changing the voltage or frequency of electric energy for the purpose of transmission or distribution.

NOTE B: When any item of equipment listed herein is used wholly to furnish power to equipment included in another account, its cost shall be included in such other account.

346 Miscellaneous power plant equipment.

This account shall include the cost installed of miscellaneous equipment in and about the other power generating plant, devoted to general station use, and not properly includible in any of the foregoing other power production accounts.

ITEMS

1. Compressed air and vacuum cleaning systems, including tanks, compressors, exhausters, air filters, piping, etc.
2. Cranes and hoisting equipment, including cranes, cars, crane rails, monorails, hoists, etc., with electric and mechanical connections.
3. Fire-extinguishing equipment for general station use.
4. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
5. Miscellaneous equipment, including atmospheric and weather indicating devices, intrasite communication equipment, laboratory equipment, signal systems, callophones, emergency whistles and sirens, fire alarms, and other similar equipment.
6. Miscellaneous belts, pulleys, countershafts, etc.
7. Refrigerating system including compressors, pumps, cooling coils, etc.
8. Station maintenance equipment, including lathes, shapers, planers, drill presses, hydraulic presses, grinders, etc., with motors, shafting, hangers, pulleys, etc.
9. Ventilating equipment, including items wholly identified with apparatus listed herein.

NOTE: When any item of equipment, listed herein is used wholly in connection with equipment included in another account, its cost shall be included in such other account.

350 Land and land rights.

This account shall include the cost of land and land rights used in connection with transmission operations. (See electric plant instruction 7.)

351 [Reserved]

352 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with transmission operations. (See electric plant instruction 8.)

353 Station equipment.

This account shall include the cost installed of transforming, conversion, and switching equipment used for the purpose of changing the characteristics of electricity in connection with its transmission or for controlling transmission circuits.

ITEMS

1. Bus compartments, concrete, brick, and sectional steel, including items permanently attached thereto.
2. Conduit, including concrete and iron duct runs not a part of a building.
3. Control equipment, including batteries battery charging equipment, transformers, remote relay boards, and connections.
4. Conversion equipment, including transformers, indoor and outdoor, frequency changers, motor generator sets, rectifiers, synchronous converters, motors, cooling equipment, and associated connections.
5. Fences.
6. Fixed and synchronous condensers, including transformers, switching equipment blowers, motors and connections.
7. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
8. General station equipment, including air compressors, motors, hoists, cranes, test equipment, ventilating equipment, etc.
9. Platforms, railings, steps, gratings, etc. appurtenant to apparatus listed herein.
10. Primary and secondary voltage connections, including bus runs and supports, insulators, potheads, lightning arresters, cable and wire runs from and to outdoor connec-

tions or to manholes and the associated regulators, reactors, resistors, surge arresters, and accessory equipment.

11. Switchboards, including meters, relays, control wiring, etc.

12. Switching equipment, indoor and outdoor, including oil circuit breakers and operating mechanisms, truck switches, and disconnect switches.

13. Tools and appliances.

354 Towers and fixtures.

This account shall include the cost installed of towers and appurtenant fixtures used for supporting overhead transmission conductors.

ITEMS

1. Anchors, guys, braces.
2. Brackets.
3. Crossarms, including braces.
4. Excavation, backfill, and disposal of excess excavated material.
5. Foundations.
6. Guards.
7. Insulator pins and suspension bolts.
8. Ladders and steps.
9. Railings, etc.
10. Towers.

355 Poles and fixtures.

This account shall include the cost installed of transmission line poles, wood, steel, concrete, or other material, together with appurtenant fixtures used for supporting overhead transmission conductors.

ITEMS

1. Anchors, head arm and other guys, including guy guards, guy clamps, strain insulators, pole plates, etc.
2. Brackets.
3. Crossarms and braces.
4. Excavation and backfill, including disposal of excess excavated material.
5. Extension arms.
6. Gaining, roofing stenciling, and tagging.
7. Insulator pins and suspension bolts.
8. Paving.
9. Pole steps.
10. Poles, wood, steel, concrete, or other material.
11. Racks complete with insulators.
12. Reinforcing and stubbing.
13. Settings.
14. Shaving and painting.

356 Overhead conductors and devices.

This account shall include the cost installed of overhead conductors and devices used for transmission purposes.

ITEMS

1. Circuit breakers.
2. Conductors, including insulated and bare wires and cables.
3. Ground wires and ground clamps.
4. Insulators, including pin, suspension and other types.
5. Lightning arresters.
6. Switches.
7. Other line devices.

357 Underground conduit.

This account shall include the cost installed of underground conduit and tunnels used for housing transmission cables or wires. (See electric plant instruction 14.)

ITEMS

1. Conduit, concrete, brick or tile, including iron pipe, fiber pipe, Murray duct, and standpipe on pole or tower.
2. Excavation, including shoring, bracing, bridging, backfill, and disposal of excess excavated material.
3. Foundations and settings specially constructed for and not expected to outlast the apparatus for which provided.
4. Lighting systems.
5. Manholes, concrete or brick, including iron or steel, frames and covers, hatchways, gratings, ladders, cable racks and hangers, etc., permanently attached to manholes.
6. Municipal inspection.
7. Pavement disturbed, including cutting and replacing pavement, pavement base and sidewalks.
8. Permits.
9. Protection of street openings.
10. Removal and relocation of subsurface obstructions.
11. Sewer connections, including drains, traps, tide valves, check valves, etc.
12. Sumps, including pumps.
13. Ventilating equipment.

358 Underground conductors and devices.

This account shall include the cost installed of underground conductors and devices used for transmission purposes.

ITEMS

1. Armored conductors, buried, including insulators, insulating materials, splices, potheads, trenching, etc.
2. Armored conductors, submarine, including insulators, insulating materials, splices in terminal chambers, potheads, etc.
3. Cables in standpipe, including potheads and connection from terminal chamber or manhole to insulators on pole.
4. Circuit breakers.

5. Fireproofing, in connection with any items listed herein.
6. Hollow-core oil-filled cable, including straight or stop joints pressure tanks, auxiliary air tanks, feeding tanks, terminals, potheads and connections, ventilating equipment, etc.
7. Lead and fabric covered conductors, including insulators, compound filled, oil filled, or vacuum splices, potheads, etc.
8. Lightning arresters.
9. Municipal inspection.
10. Permits.
11. Protection of street openings.
12. Racking of cables.
13. Switches.
14. Other line devices.

359 Roads and trails.

This account shall include the cost of roads, trails, and bridges used primarily as transmission facilities.

ITEMS

1. Bridges, including foundation piers, girders, trusses, flooring, etc.
2. Clearing land.
3. Roads, including grading, surfacing, culverts, etc.
4. Structures, constructed and maintained in connection with items included herein.
5. Trails, including grading, surfacing, culverts, etc.

NOTE: The cost of temporary roads, bridges, etc., necessary during the period of construction but abandoned or dedicated to public use upon completion of the plant, shall be charged to the accounts appropriate for the construction.

360 Land and land rights.

This account shall include the cost of land and land rights used in connection with distribution operations. (See electric plant instruction 7.)

NOTE: Do not include in this account the cost of permits to erect poles, towers, etc., or to trim trees. (See account 364, Poles, Towers and Fixtures, and account 365, Overhead Conductors and Devices.)

361 Structures and improvements.

This account shall include the cost in place of structures and improvements used in connection with distribution operations. (See electric plant instruction 8.)

362 Station equipment.

This account shall include the cost installed of station equipment, including transformer banks, etc., which are used for the purpose of changing the characteristics of electricity in connection with its distribution.

ITEMS

1. Bus compartments, concrete, brick and sectional steel, including items permanently attached thereto.
2. Conduit, including concrete and iron duct runs not part of building.
3. Control equipment, including batteries, battery charging equipment, transformers, remote relay boards, and connections.
4. Conversion equipment, indoor and outdoor, frequency changers, motor generator sets, rectifiers, synchronous converters, motors, cooling equipment, and associated connections.
5. Fences.
6. Fixed and synchronous condensers, including transformers, switching equipment, blowers, motors, and connections.
7. Foundations and settings, specially constructed for and not expected to outlast the apparatus for which provided.
8. General station equipment, including air compressors, motors, hoists, cranes, test equipment, ventilating equipment, etc.
9. Platforms, railings, steps, gratings, etc., appurtenant to apparatus listed herein.
10. Primary and secondary voltage connections, including bus runs and supports, insulators, potheads, lightning arresters, cable and wire runs from and to outdoor connections or to manholes and the associated regulators, reactors, resistors, surge arresters, and accessory equipment.
11. Switchboards, including meters, relays, control wiring, etc.
12. Switching equipment, indoor and outdoor, including oil circuit breakers and operating mechanisms, truck switches, disconnect switches.

NOTE: The cost of rectifiers, series transformers, and other special station equipment devoted exclusively to street lighting service shall not be included in this account, but in account 373, Street Lighting and Signal Systems.

363 Storage battery equipment.

This account shall include the cost installed of storage battery equipment used for the purpose of supplying electricity to meet emergency or peak demands.

ITEMS

1. Batteries, including elements, tanks, tank insulators, etc.
2. Battery room connections, including cable or bus runs and connections.
3. Battery room flooring, when specially laid for supporting batteries.

4. Charging equipment, including motor generator sets and other charging equipment and connections, and cable runs from generator or station bus to battery room connections.

5. Miscellaneous equipment, including instruments, water stills, etc.

6. Switching equipment, including endcell switches and connections, boards and panels, used exclusively for battery control, not part of general station switchboard.

7. Ventilating equipment, including fans and motors, louvers, and ducts not part of building.

NOTE: Storage batteries used for control and general station purposes shall not be included in this account but in the account appropriate for their use.

364 Poles, towers and fixtures.

This account shall include the cost installed of poles, towers, and appurtenant fixtures used for supporting overhead distribution conductors and service wires.

ITEMS

1. Anchors, head arm, and other guys, including guy guards, guy clamps, strain insulators, pole plates, etc.
2. Brackets.
3. Crossarms and braces.
4. Excavation and backfill, including disposal of excess excavated material.
5. Extension arms.
6. Foundations.
7. Guards.
8. Insulator pins and suspension bolts.
9. Paving.
10. Permits for construction.
11. Pole steps and ladders.
12. Poles, wood, steel, concrete, or other material.
13. Racks complete with insulators.
14. Railings.
15. Reinforcing and stubbing.
16. Settings.
17. Shaving, painting, gaining, roofing, stenciling, and tagging.
18. Towers.
19. Transformer racks and platforms.

365 Overhead conductors and devices.

This account shall include the cost installed of overhead conductors and devices used for distribution purposes.

ITEMS

1. Circuit breakers.
2. Conductors, including insulated and bare wires and cables.
3. Ground wires, clamps, etc.
4. Insulators, including pin, suspension, and other types, and tie wire or clamps.
5. Lightning arresters.
6. Railroad and highway crossing guards.
7. Splices.
8. Switches.
9. Tree trimming, initial cost including the cost of permits therefor.
10. Other line devices.

NOTE: The cost of conductors used solely for street lighting or signal systems shall not be included in this account but in account 373, Street Lighting and Signal Systems.

366 Underground conduit.

This account shall include the cost installed of underground conduit and tunnels used for housing distribution cables or wires.

ITEMS

1. Conduit, concrete, brick and tile, including iron pipe, fiber pipe, Murray duct, and standpipe on pole or tower.
2. Excavation, including shoring, bracing, bridging, backfill, and disposal of excess excavated material.
3. Foundations and settings specially constructed for and not expected to outlast the apparatus for which constructed.
4. Lighting systems.
5. Manholes, concrete or brick, including iron or steel frames and covers, hatchways, gratings, ladders, cable racks and hangers, etc., permanently attached to manholes.
6. Municipal inspection.
7. Pavement disturbed, including cutting and replacing pavement, pavement base and sidewalks.
8. Permits.
9. Protection of street openings.
10. Removal and relocation of subsurface obstructions.
11. Sewer connections, including drains, traps, tide valves, check valves, etc.
12. Sumps, including pumps.
13. Ventilating equipment.

NOTE: The cost of underground conduit used solely for street lighting or signal systems shall be included in account 373, Street Lighting and Signal Systems.

367 Underground conductors and devices.

This account shall include the cost installed of underground conductors and devices used for distribution purposes.

ITEMS

1. Armored conductors, buried, including insulators, insulating materials, splices, potheads, trenching, etc.

2. Armored conductors, submarine, including insulators, insulating materials, splices in terminal chamber, potheads, etc.

3. Cables in standpipe, including pothead and connection from terminal chamber or manhole to insulators on pole.

4. Circuit breakers.

5. Fireproofing, in connection with any items listed herein.

6. Hollow-core oil-filled cable, including straight or stop joints, pressure tanks, auxiliary air tanks, feeding tanks, terminals, potheads and connections, etc.

7. Lead and fabric covered conductors, including insulators, compound-filled, oil-filled or vacuum splices, potheads, etc.

8. Lightning arresters.

9. Municipal inspection.

10. Permits.

11. Protection of street openings.

12. Racking of cables.

13. Switches.

14. Other line devices.

Note: The cost of underground conductors and devices used solely for street lighting or signal systems shall be included in account 373, Street Lighting and Signal Systems.

368 Line transformers.

A. This account shall include the cost installed of overhead and underground distribution line transformers and poletype and underground voltage regulators owned by the utility, for use in transforming electricity to the voltage at which it is to be used by the customer, whether actually in service or held in reserve.

B. When a transformer is permanently retired from service, the original installed cost thereof shall be credited to this account.

C. The records covering line transformers shall be so kept that the utility can furnish the number of transformers of various capacities in service and those in reserve, and the location and the use of each transformer.

Items

1. Installation, labor of (first installation only).

2. Transformer cut-out boxes.

3. Transformer lightning arresters.

4. Transformers, line and network.

5. Capacitors.

6. Network protectors.

Note: The cost of removing and resetting line transformers shall not be charged to this account but to account 583, Overhead Line Expenses, or account 584, Underground Line Expenses (for Nonmajor utilities, account 561, Line and Station Labor, or account 562, Line and Station Supplies and Expenses), as appropriate. The cost of line transformers used solely for street lighting or signal systems shall be included in account 373, Street Lighting and Signal Systems.

369 Services.

This account shall include the cost installed of overhead and underground conductors leading from a point where wires leave the last pole of the overhead system or the distribution box or manhole, or the top of the pole of the distribution line, to the point of connection with the customer's outlet or wiring. Conduit used for underground service conductors shall be included herein.

Items

1. Brackets.

2. Cables and wires.

3. Conduit.

4. Insulators.

5. Municipal inspection.

6. Overhead to underground, including conduit or standpipe and conductor from last splice on pole to connection with customer's wiring.

7. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.

8. Permits.

9. Protection of street openings.

10. Service switch.

11. Suspension wire.

370 Meters.

A. This account shall include the cost installed of meters or devices and appurtenances thereto, for use in measuring the electricity delivered to its users, whether actually in service or held in reserve.

B. When a meter is permanently retired from service, the installed cost included herein shall be credited to this account.

C. The records covering meters shall be so kept that the utility can furnish information as to the number of meters of various capacities in service and in reserve as well as the location of each meter owned.

Items

1. Alternating current, watt-hour meters.

2. Current limiting devices.

3. Demand indicators.

4. Demand meters.

5. Direct current watt-hour meters.
6. Graphic demand meters.
7. Installation, labor of (first installation only).
8. Instrument transformers.
9. Maximum demand meters.
10. Meter badges and their attachments.
11. Meter boards and boxes.
12. Meter fittings, connections, and shelves (first set).
13. Meter switches and cut-outs.
14. Prepayment meters.
15. Protective devices.
16. Testing new meters.

NOTE A: This account shall not include meters for recording output of a generating station, substation meters, etc. It includes only those meters used to record energy delivered to customers.

NOTE B: The cost of removing and resetting meters shall be charged to account 586, Meter Expenses (for Nonmajor utilities, account 556, Meter Expenses).

371 Installations on customers' premises.

This account shall include the cost installed of equipment on the customer's side of a meter when the utility incurs such cost and when the utility retains title to and assumes full responsibility for maintenance and replacement of such property. This account shall not include leased equipment, for which see account 372, Leased Property on Customers' Premises.

ITEMS

1. Cable vaults.
2. Commercial lamp equipment.
3. Foundations and settings specially provided for equipment included herein.
4. Frequency changer sets.
5. Motor generator sets.
6. Motors.
7. Switchboard panels, high or low tension.
8. Wire and cable connections to incoming cables.

NOTE: Do not include in this account any costs incurred in connection with merchandising, jobbing, or contract work activities.

372 Leased property on customers' premises.

This account shall include the cost of electric motors, transformers, and other equipment on customers' premises (including municipal corporations), leased or loaned to customers, but not including property held for sale.

NOTE A: The cost of setting and connecting such appliances or equipment on the premises of customers and the cost of resetting or removal shall not be charged to this account but to operating expenses, account 587, Customer Installations Expenses (for Nonmajor utilities, account 567, Customer Installations Expenses).

NOTE B: Do not include in this account any costs incurred in connection with merchandising, jobbing, or contract work activities.

373 Street lighting and signal systems.

This account shall include the cost installed of equipment used wholly for public street and highway lighting or traffic, fire alarm, police, and other signal systems.

ITEMS

1. Armored conductors, buried or submarine, including insulators, insulating materials, splices, trenching, etc.
2. Automatic control equipment.
3. Conductors, overhead or underground, including lead or fabric covered, parkway cables, etc., including splices, insulators, etc.
4. Lamps, arc, incandescent, or other types, including glassware, suspension fixtures, brackets, etc.
5. Municipal inspection.
6. Ornamental lamp posts.
7. Pavement disturbed, including cutting and replacing pavement, pavement base and sidewalks.
8. Permits.
9. Posts and standards.
10. Protection of street openings.
11. Relays or time clocks.
12. Series contactors.
13. Switches.
14. Transformers, pole or underground.

389 Land and land rights.

This account shall include the cost of land and land rights used for utility purposes, the cost of which is not properly includible in other land and land rights accounts. (See electric plant instruction 7.)

390 Structures and improvements.

This account shall include the cost in place of structures and improvements used for utility purposes, the cost of which is not properly includible in other structures and improvements accounts (See electric plant instruction 8.)

391 Office furniture and equipment.

This account shall include the cost of office furniture and equipment owned by the utility and devoted to utility service, and not permanently attached to buildings, except the cost of such furniture and equipment which the utility elects to assign to other plant accounts on a functional basis.

Items

1. Bookcases and shelves.
2. Desks, chairs, and desk equipment.
3. Drafting-room equipment.
4. Filing, storage, and other cabinets.
5. Floor covering.
6. Library and library equipment.
7. Mechanical office equipment, such as accounting machines, typewriters, etc.
8. Safes.
9. Tables.

392 Transportation equipment.

This account shall include the cost of transportation vehicles used for utility purposes.

Items

1. Airplanes.
2. Automobiles.
3. Bicycles.
4. Electrical vehicles.
5. Motor trucks.
6. Motorcycles.
7. Repair cars or trucks.
8. Tractors and trailers.
9. Other transportation vehicles.

393 Stores equipment.

This account shall include the cost of equipment used for the receiving, shipping, handling, and storage of materials and supplies.

Items

1. Chain falls.
2. Counters.
3. Cranes (portable).
4. Elevating and stacking equipment (portable).
5. Hoists.
6. Lockers.
7. Scales.
8. Shelving.
9. Storage bins.
10. Trucks, hand and power driven.
11. Wheelbarrows.

394 Tools, shop and garage equipment.

This account shall include the cost of tools, implements, and equipment used in construction, repair work, general shops and garages and not specifically provided for or includible in other accounts.

Items

1. Air compressors.
2. Anvils.
3. Automobile repair shop equipment.
4. Battery charging equipment.
5. Belts, shafts and countershafts.
6. Boilers.
7. Cable pulling equipment.
8. Concrete mixers.
9. Drill presses.
10. Derricks.
11. Electric equipment.
12. Engines.
13. Forges.
14. Furnaces.
15. Foundations and settings specially constructed for and not expected to outlast the equipment for which provided.
16. Gas producers.
17. Gasoline pumps, oil pumps and storage tanks.
18. Greasing tools and equipment.
19. Hoists.
20. Ladders.
21. Lathes.
22. Machine tools.
23. Motor-driven tools.
24. Motors.
25. Pipe threading and cutting tools
26. Pneumatic tools.
27. Pumps.
28. Riveters.
29. Smithing equipment.
30. Tool racks.
31. Vises.
32. Welding apparatus.
33. Work benches.

395 Laboratory equipment.

This account shall include the cost installed of laboratory equipment used for general laboratory purposes and not specifically provided for or includible in other departmental or functional plant accounts.

Items

1. Ammeters.
2. Current batteries.
3. Frequency changers.
4. Galvanometers.
5. Inductometers.
6. Laboratory standard millivolt meters.
7. Laboratory standard volt meters.
8. Meter-testing equipment.
9. Millivolt meters.
10. Motor generator sets.
11. Panels.
12. Phantom loads.

13. Portable graphic ammeters, voltmeters, and wattmeters.
14. Portable loading devices.
15. Potential batteries.
16. Potentiometers.
17. Rotating standards.
18. Standard cell, reactance, resistor, and shunt.
19. Switchboards.
20. Synchronous timers.
21. Testing panels.
22. Testing resistors.
23. Transformers.
24. Voltmeters.
25. Other testing, laboratory, or research equipment not provided for elsewhere.

396 Power operated equipment.

This account shall include the cost of power operated equipment used in construction or repair work exclusive of equipment includible in other accounts. Include, also, the tools and accessories acquired for use with such equipment and the vehicle on which such equipment is mounted.

ITEMS

1. Air compressors, including driving unit and vehicle.
2. Back filling machines.
3. Boring machines.
4. Bulldozers.
5. Cranes and hoists.
6. Diggers.
7. Engines.
8. Pile drivers.
9. Pipe cleaning machines.
10. Pipe coating or wrapping machines.
11. Tractors—Crawler type.
12. Trenchers.
13. Other power operated equipment.

NOTE: It is intended that this account include only such large units as are generally self-propelled or mounted on movable equipment.

397 Communication equipment.

This account shall include the cost installed of telephone, telegraph, and wireless equipment for general use in connection with utility operations.

ITEMS

1. Antennae.
2. Booths.
3. Cables.
4. Distributing boards.
5. Extension cords.
6. Gongs.
7. Hand sets, manual and dial.
8. Insulators.
9. Intercommunicating sets.
10. Loading coils.
11. Operators' desks.
12. Poles and fixtures used wholly for te phone or telegraph wire.
13. Radio transmitting and receiving s
14. Remote control equipment and lines
15. Sending keys.
16. Storage batteries
17. Switchboards.
18. Telautograph circuit connections.
19. Telegraph receiving sets.
20. Telephone and telegraph circuits.
21. Testing instruments.
22. Towers.
23. Underground conduit used wholly telephone or telegraph wires and ca wires.

398 Miscellaneous equipment.

This account shall include the co of equipment, apparatus, etc., used the utility operations, which is not cludible in any other account of th system of accounts.

ITEMS

1. Hospital and infirmary equipment.
2. Kitchen equipment.
3. Employees' recreation equipment.
4. Radios.
5. Restaurant equipment.
6. Soda fountains.
7. Operators' cottage furnishings.
8. Other miscellaneous equipment.

NOTE: Miscellaneous equipment of th nature indicated above wherever practicab shall be included in the utility plant a counts on a functional basis.

399 Other tangible property.

This account shall include the co of tangible utility plant not provide for elsewhere.

Income Chart of Accounts

1. UTILITY OPERATING INCOME

400 Operating revenues.
401 Operation expense.
402 Maintenance expense.
403 Depreciation expense.
404 Amortization of limited-term electr plant.
405 Amortization of other electric plant.
406 Amortization of electric plant acqui tion adjustments.
407 Amortization of property losses, unr covered plant and regulatory stud costs.
408 [Reserved]
408.1 Taxes other than income taxes, uti ty operating income.
409 [Reserved]

409.1 Income taxes, utility operating income.
410 [Reserved]
410.1 Provisions for deferred income taxes, utility operating income.
411 [Reserved]
411.1 Provision for deferred income taxes—Credit, utility operating income.
411.3 [Reserved]
411.4 Investment tax credit adjustments, utility operations.
411.6 Gains from disposition of utility plant.
411.7 Losses from disposition of utility plant.
412 Revenues from electric plant leased to others.
413 Expenses of electric plant leased to others.
414 Other utility operating income.

2. OTHER INCOME AND DEDUCTIONS

A. OTHER INCOME

415 Revenues from merchandising, jobbing, and contract work.
416 Costs and expenses of merchandising, jobbing, and contract work.
417 Revenues from nonutility operations.
417.1 Expenses of nonutility operations.
418 Nonoperating rental income.
418.1 Equity in earnings of subsidiary companies (Major only).
419 Interest and dividend income.
419.1 Allowance for other funds used during construction.
421 Miscellaneous nonoperating income.
421.1 Gain on disposition of property.

B. OTHER INCOME DEDUCTIONS

421.2 Loss on disposition of property.
425 Miscellaneous amortization.
426 [Reserved]
426.1 Donations.
426.2 Life insurance.
426.3 Penalties.
426.4 Expenditures for certain civic, political and related activities.
426.5 Other deductions.
Total other income deductions.
Total Other Income and Deductions.

C. TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS

408.2 Taxes other than income taxes, other income and deductions.
409.2 Income tax, other income and deductions.
410.2 Provision for deferred income taxes, other income and deductions.
411.2 Provision for deferred income taxes—Credit, other income and deductions.
411.5 Investment tax credit adjustments, nonutility operations.
420 Investment tax credits.
Total taxes on other income and deductions.
Net other income and deductions.

3. INTEREST CHARGES

427 Interest on long-term debt.
428 Amortization of debt discount and expense.
428.1 Amortization of loss on reacquired debt.
429 Amortization of premium on debt-Cr.
429.1 Amortization of gain on reacquired debt—Credit.
430 Interest on debt to associated companies.
431 Other interest expense.
432 Allowance for borrowed funds used during construction—Credit.

4. EXTRAORDINARY ITEMS

434 Extraordinary income.
435 Extraordinary deductions.
409.3 Income taxes, extraordinary items.
Net income.

Income Accounts

400 Operating revenues.

There shall be shown under this caption the total amount included in the electric operating revenue accounts provided herein.

401 Operation expense.

There shall be shown under this caption the total amount included in the electric operation expense accounts provided herein. (See note to operating expense instruction 3.)

402 Maintenance expense.

There shall be shown under this caption the total amount included in the electric maintenance expense accounts provided herein.

403 Depreciation expense.

A. This account shall include the amount of depreciation expense for all classes of depreciable electric plant in service except such depreciation expense as is chargeable to clearing accounts or to account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

B. The utility shall keep such records of property and property retirements as will reflect the service life of property which has been retired and aid in estimating probable service life by mortality, turnover, or other appropriate methods; and also such records as will reflect the percentage of salvage and costs of removal for property retired from each account, or subdivision thereof, for depreciable electric plant.

NOTE A: Depreciation expense applicable to property included in account 104, Electric Plant Leased to Others, shall be charged to account 413, Expenses of Electric Plant Leased to Others.

NOTE B: Depreciation expenses applicable to transportation equipment, shop equipment, tools, work equipment, power operated equipment and other general equipment may be charged to clearing accounts as necessary in order to obtain a proper distribution of expenses between construction and operation.

NOTE C: Depreciation expense applicable to transportation equipment used for transportation of fuel from the point of acquisition to the unloading point shall be charged to Account 151, Fuel Stock.

404 Amortization of limited-term electric plant.

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, and expenditures on leased property where the service life of the improvements is terminable by action of the lease. The charges to this account shall be such as to distribute the book cost of each investment as evenly as may be over the period of its benefit to the utility.

(See account 111, Accumulated Provision for Amortization of Electric Utility Plant.)

405 Amortization of other electric plant.

A. When authorized by the Commission, this account shall include charges for amortization of intangible or other electric utility plant which does not have a definite or terminable life and which is not subject to charges for depreciation expense.

B. This account shall be supported in such detail as to show the amortization applicable to each investment being amortized, together with the book cost of the investment and the period over which it is being written off.

406 Amortization of electric plant acqu tion adjustments.

This account shall be debited o credited, as the case may be, wi amounts includible in operating e penses, pursuant to approval or orde of the Commission, for the purpose o providing for the extinguishment o the amount in account 114, Electr Plant Acquisition Adjustments.

407 Amortization of property losses, un covered plant and regulatory stu costs.

This account shall be charged wi amounts credited to account 182.1, Ex traordinary Property Losses, and ac count 182.2, Unrecovered Plant an Regulatory Study Costs, when th Commission has authorized th amount in the latter account to be am ortized by charges to electric ope ations.

408 [Reserved]

SPECIAL INSTRUCTIONS, ACCOUNTS 408.1 AN 408.2

A. These accounts shall include th amounts of ad valorem, gross revenue o gross receipts taxes, state unemployment in surance, franchise taxes, Federal exc taxes, social security taxes, and all oth taxes assessed by Federal, state, county, mu nicipal, or other local governmental autho ties, except income taxes.

B. These accounts shall be charged i each accounting period with the amounts o taxes which are applicable thereto, wi concurrent credits to account 236, Taxes Ac crued, or account 165, Prepayments as ap propriate. When it is not possible to dete mine the exact amounts of taxes, th amounts shall be estimated and adju ments made in current accruals as th actual tax levies become known.

C. The charges to these accounts shall b made or supported so as to show th amount of each tax and the basis upo which each charge is made. In the case of utility rendering more than one utility ser ice, taxes of the kind includible in these ac counts shall be assigned directly to the uti ty department the operation of which gav rise to the tax in so far as practicabl Where the tax is not attributable to a spe cific utility department, it shall be distribu ed among the utility departments or nonu lity operations on an equitable basis afte appropriate study to determine such basis.

NOTE 1: Special assessments for street an similar improvements shall be included i e appropriate utility plant or nonutility operty account.

Iote 2: Taxes specifically applicable to nstruction shall be included in the cost of nstruction.

Iote 3: Gasoline and other sales taxes ll be charged as far as practicable to the e account as the materials on which the is levied.

Iote 4: Social security and other forms of called payroll taxes shall be distributed utility departments and to nonutility ctions on a basis related to payroll. ounts applicable to construction shall be rged to the appropriate plant account.

Iote 5: Interest on tax refunds or defi- ncies shall not be included in these ac- nts but in account 419, Interest and Divi- d Income, or 431, Other Interest Ex- se, as appropriate.

.1 Taxes other than income taxes, utili- ty operating income.

his account shall include those es other than income taxes which ate to utility operating income. This ount shall be maintained so as to w ready identification of the vari- classes of taxes relating to Utility erating Income (by department), lity Plant Leased to Others and ner Utility Operating Income.

2 Taxes other than income taxes, other income and deductions.

his account shall include those es other than income taxes which te to Other Income and Deduc- s.

[Reserved]

IAL INSTRUCTIONS, ACCOUNTS 409.1, 409.2, AND 409.3.

These accounts shall include the unts of local, state and Federal income s on income properly accruable during period covered by the income statement eet the actual liability for such taxes. current credits for the tax accruals shall ade to account 236, Taxes Accrued, and he exact amounts of taxes become n, the current tax accruals shall be ad- ed by charges or credits to these ac- ts, so that these accounts as nearly as be ascertained shall include the actual s payable by the utility.

The accruals for income taxes shall be rtioned among utility departments and ther Income and Deductions so that, as ly as practicable, each tax shall be in- ed in the expenses of the utility depart- or Other Income and Deductions, the ne from which gave rise to the tax. The tax effects relating to Interest Charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

Note 1: Taxes assumed by the utility on interest shall be charged to account 431, Other Interest Expense.

Note 2: Interest on tax refunds or deficiencies shall not be included in these accounts but in account 419, Interest and Dividend Income, or account 431, Other Interest Expense, as appropriate.

409.1 Income taxes, utility operating income.

This account shall include the amount of those local, state and Federal income taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative) relating to Utility Operating Income (by department), Utility Plant Leased to Others and Other Utility Operating Income.

409.2 Income taxes, other income and deductions.

This account shall include the amount of those local, state and Federal income taxes (both positive and negative), which relate to Other Income and Deductions.

409.3 Income taxes, extraordinary items.

This account shall include the amount of those local, state and Federal income taxes (both positive and negative), which relate to Extraordinary Items.

410 [Reserved]

SPECIAL INSTRUCTIONS, ACCOUNTS 410.1, 410.2, 411.1, AND 411.2.

A. Accounts 410.1 and 410.2 shall be debited, and Accumulated Deferred Income Taxes shall be credited, with amounts equal to any current deferrals of taxes on income or any allocations of deferred taxes originating in prior periods, as provided by the texts of accounts 190, 281, 282, and 283. There shall not be netted against entries required to be made to these accounts any credit amounts appropriately includible in account 411.1 or 411.2.

B. Accounts 411.1 and 411.2 shall be credited, and Accumulated Deferred Income

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Taxes shall be debited, with amounts equal to any allocations of deferred taxes originating in prior periods or any current deferrals of taxes on income, as provided by the texts of accounts 190, 281, 282, and 283. There shall not be netted against entries required to be made to these accounts any debit amounts appropriately includible in account 410.1 or 410.2.

410.1 Provision for deferred income taxes, utility operating income.

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to Utility Operating Income (by department).

410.2 Provision for deferred income taxes, other income and deductions.

This account shall include the amounts of those deferrals of taxes and allocations of deferred taxes which relate to Other Income and Deductions.

411 [Reserved]

411.1 Provision for deferred income taxes—Credit, utility operating income.

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to Utility Operating Income (by department).

411.2 Provision for deferred income taxes—Credit, other income and deductions.

This account shall include the amounts of those allocations of deferred taxes and deferrals of taxes, credit, which relate to Other Income and Deductions.

411.3 [Reserved]

SPECIAL INSTRUCTIONS—ACCOUNTS 411.4 AND 411.5

A. Account 411.4 shall be debited with the amounts of investment tax credits related to electric utility property that are credited to account 255, Accumulated Deferred Investment Tax Credits, by companies which do not apply the entire amount of the benefits of the investment credit as a reduction of the overall income tax expense in the year in which such credit is realized (see account 255).

B. Account 411.4 shall be credited with the amounts debited to account 255 for proportionate amounts of tax credit deferrals allocated over the average useful life of electric utility property to which the tax credits relate or such lesser period of time as may be adopted and consistently followed by the company.

C. Account 411.5 shall also be debited and credited as directed in paragraphs A and B for investment tax credits related to nonutility property.

411.4 Investment tax credit adjustments, utility operations.

This account shall include the amount of those investment tax credit adjustments related to property used in Utility Operations (by department).

411.5 Investment tax credit adjustments, nonutility operations.

This account shall include the amount of those investment tax credit adjustments related to property used in Nonutility Operations.

411.6 Gains from disposition of utility plant.

This account shall include, as approved by the Commission, amounts relating to gains from the disposition of future use utility plant including amounts which were previously recorded in and transferred from account 105, Electric Plant Held for Future Use, under the provisions of paragraphs B, C, and D thereof. Income taxes relating to gains recorded in this account shall be recorded in account 409.1, Income Taxes, Utility Operating Income.

411.7 Losses from disposition of utility plant.

This account shall include, as approved by the Commission, amounts relating to losses from the disposition of future use utility plant including amounts which were previously recorded in and transferred from account 105, Electric Plant Held for Future Use, under the provisions of paragraphs B, C, and D thereof. Income taxes relating to losses, recorded in this account shall be recorded in account 409.1, Income Taxes, Utility Operating Income.

2 Revenues from electric plant leased to others.

3 Expenses of electric plant leased to others.

A. These accounts shall include re- ectively, revenues from electric operty constituting a distinct oper- ng unit or system leased by the util- to others, and which property is operly includible in account 104, ectric Plant Leased to Others, and e expenses attributable to such operty.

3. The detail of expenses shall be ot or supported so as to show sepa- ely the following:

peration.
laintenance.
epreciation.
mortization.

OTE: Related taxes shall be recorded in ount 408.1, Taxes Other Than Income es, Utility Operating Income, or account 1, Income Taxes, Utility Operating ome, as appropriate.

Other utility operating income.

. This account shall include the enues received and expenses in- red in connection with the oper- ons of utility plant, the book cost of ch is included in account 118, ner Utility Plant.

. The expenses shall include every nent of cost incurred in such oper- ons, including depreciation, rents, l insurance.

OTE: Related taxes shall be recorded in unt 408.1, Taxes Other Than Income es, Utility Operating Income, or account l, Income Taxes, Utility Operating me, as appropriate.

Revenues from merchandising, job- bing and contract work.

Costs and expenses of merchandising, jobbing and contract work.

. These accounts shall include re- ctively, all revenues derived from sale of merchandise and jobbing or tract work, including any profit or mission accruing to the utility on bing work performed by it as agent er contracts whereby it does job- g work for another for a stipulated fit or commission, and all expenses rred in such activities. Interest related income from installment sales shall be recorded in Account 419, Interest and Dividend income.

B. Records in support of these accounts shall be so kept as to permit ready summarization of revenues, costs and expenses by such major items as are feasible.

NOTE 1: The classification of revenues, costs, and expenses of merchandising, jobbing, and contract work as nonoperating, and thus inclusion in this account, is for accounting purposes. It does not preclude consideration of justification to the contrary for ratemaking or other purposes.

NOTE 2: Related taxes shall be recorded in account 408.2, Taxes Other Than Income Taxes, Other Income and Deductions, or account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

ITEMS

Account 415:

1. Revenues from sale of merchandise and from jobbing and contract work.
2. Discounts and allowances made in settlement of bills for merchandise and jobbing work.

Account 416:

Labor—

1. Canvassing and demonstrating appliances in homes and other places for the purpose of selling appliances.
2. Demonstrating and selling activities in sales rooms.
3. Installing appliances on customer premises where such work is done only for purchasers of appliances from the utility.
4. Installing wiring, piping, or other property work, on a jobbing or contract basis.
5. Preparing advertising materials for appliance sales purposes.
6. Receiving and handling customer orders for merchandise or for jobbing services.
7. Cleaning and tidying sales rooms.
8. Maintaining display counters and other equipment used in merchandising.
9. Arranging merchandise in sales rooms and decorating display windows.
10. Reconditioning repossessed appliances.
11. Bookkeeping and other clerical work in connection with merchandise and jobbing activities.
12. Supervising merchandise and jobbing operations.

Materials and expenses—

13. Advertising in newspapers, periodicals, radio, television, etc.
14. Cost of merchandise sold and of materials used in jobbing work.
15. Stores expenses on merchandise and jobbing stocks.

16. Fees and expenses of advertising and commercial artists' agencies.

17. Printing booklets, dodgers, and other advertising data.

18. Premiums given as inducement to buy appliances.

19. Light, heat and power.

20. Depreciation on equipment used primarily for merchandise and jobbing operations.

21. Rent of sales rooms or of equipment.

22. Transportation expense in delivery and pick-up of appliances by utility's facilities or by others.

23. Stationery and office supplies and expenses.

24. Losses from uncollectible merchandise and jobbing accounts.

417 Revenues from nonutility operations.

417.1 Expenses of nonutility operations.

A. These accounts shall include revenues and expenses applicable to operations which are nonutility in character but nevertheless constitute a distinct operating activity of the enterprise as a whole, such as the operation of an ice department where applicable statutes do not define such operation as a utility, or the operation of a servicing organization for furnishing supervision, management, engineering, and similar services to others.

B. The expenses shall include all elements of costs incurred in such operations, and the accounts shall be maintained so as to permit ready summarization as follows:

Operation.
Maintenance.
Rents.
Depreciation.
Amortization.

NOTE: Related taxes shall be recorded in account 408.2, Taxes Other Than Income Taxes, Other Income and Deductions, or account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

418 Nonoperating rental income.

A. This account shall include all rent revenues and related expenses of land, buildings, or other property included in account 121, Nonutility Property, which is not used in operations covered by account 417 or 417.1.

B. The expenses shall include all elements of costs incurred in the ownership and rental of property and the accounts shall be maintained so as to permit ready summarization as follows:

Operation.
Maintenance.
Rents.
Depreciation.
Amortization.

NOTE: Related taxes shall be recorded in account 408.2. Taxes Other Than Income Taxes, Other Income and Deductions, or account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

418.1 Equity in earnings of subsidiary companies (Major only).

This account shall include the utility's equity in the earnings or losses of subsidiary companies for the year.

419 Interest and dividend income.

A. This account shall include interest revenues on securities, loans, notes, advances, special deposits, tax refunds and all other interest-bearing assets, and dividends on stocks of other companies, whether the securities on which the interest and dividends are received are carried as investments or included in sinking or other special fund accounts.

B. This account may include the pro rata amount necessary to extinguish (during the interval between the date of acquisition and the date of maturity) the difference between the cost to the utility and the face value of interest-bearing securities. Amounts thus credited or charged shall be concurrently included in the accounts in which the securities are carried.

C. Where significant in amount, expenses, excluding operating taxes and income taxes, applicable to security investments and to interest and dividend revenues thereon shall be charged hereto.

NOTE 1: Related taxes shall be recorded in account 408.2, Taxes Other Than Income Taxes, Other Income and Deductions, or account 409.2, Income Taxes, Other Income and Deductions, as appropriate.

NOTE 2: Interest accrued, the payment of which is not reasonably assured, dividends receivable which have not been declared or guaranteed, and interest or dividends upon reacquired securities issued or assumed by the utility shall not be credited to this account.

9.1 Allowance for other funds used during construction.

This account shall include concur-
nt credits for allowance for other
nds used during construction, not to
xceed amounts computed in accord-
nce with the formula prescribed in
lectric Plant Instruction 3(17).

0 Investment tax credits.

This account shall be credited as fol-
ws with investment tax credit
mounts not passed on to customers:

A. By amounts equal to debits to ac-
ounts 411.4, Investment Tax Credit
djustments, Utility Operations, and
11.5, Investment Tax Credit Adjust-
ents, Nonutility Operations, for in-
estment tax credits used in calculat-
g income taxes for the year when
he company's accounting provides for
ondeferral of all or a portion of such
redits; and,

B. By amounts equal to debits to ac-
ount 255, Accumulated deferred in-
estment tax credits, for proportionate
mounts of tax credit deferrals allo-
ated over the average useful life of
he property to which the tax credits
elate, or such lesser period of time as
ay be adopted and consistently used
y the company.

21 Miscellaneous nonoperating income.

This account shall include all reve-
ue and expense items except taxes
roperly includible in the income ac-
ount and not provided for elsewhere.
Related taxes shall be recorded in ac-
ount 408.2, Taxes Other Than
ncome Taxes, Other Income and De-
luctions, or account 409.2, Income
Taxes, Other Income and Deductions,
s appropriate.

ITEMS

1. Profit on sale of timber. (See electric
lant instruction 7C.)

2. Profits from operations of others real-
zed by the utility under contracts.

3. Gains on disposition of investments.
Also, gains on reacquisition and resale or re-
irement of utilities debt securities when
he gain is not amortized and used by a ju-
risdictional regulatory agency to reduce em-
bedded debt cost in establishing rates. See
General Instruction 17.

421.1 Gain on disposition of property.

This account shall be credited with the gain on the sale, conveyance, exchange, or transfer of utility or other property to another. Amounts relating to gains on land and land rights held for future use recorded in account 105, Electric Plant Held for Future Use will be accounted for as prescribed in paragraphs B, C, and D thereof. (See electric plant instructions 5F, 7E, and 10E.) Income taxes on gains recorded in this account shall be recorded in account 409.2, Income Taxes, Other Income and Deductions.

421.2 Loss on disposition of property.

This account shall be charged with the loss on the sale, conveyance, exchange or transfer of utility or other property to another. Amounts relating to losses on land and land rights held for future use recorded in account 105, Electric Plant Held for Future Use will be accounted for as prescribed in paragraphs B, C, and D thereof. (See electric plant instructions 5F, 7E, and 10E.) The reduction in income taxes relating to losses recorded in this account shall be recorded in account 409.2, Income Taxes, Other Income and Deductions.

425 Miscellaneous amortization.

This account shall include amortization charges not includible in other accounts which are properly deductible in determining the income of the utility before interest charges. Charges includible herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

ITEMS

1. Amortization of utility plant acquisition adjustments, or of intangibles included in utility plant in service when not authorized to be included in utility operating expenses by the Commission.

2. Other miscellaneous amortization charges allowed to be included in this account by the Commission.

426 [Reserved]

SPECIAL INSTRUCTIONS—ACCOUNTS 426.1, 426.2, 426.3, 426.4 AND 426.5

These accounts shall include miscellaneous expense items which are nonoperating in nature but which are properly deductible before determining total income before interest charges.

NOTE: The classification of expenses as nonoperating and their inclusion in these accounts is for accounting purposes. It does not preclude Commission consideration of proof to the contrary for ratemaking or other purposes.

426.1 Donations.

This account shall include all payments or donations for charitable, social or community welfare purposes.

426.2 Life insurance.

This account shall include all payments for life insurance of officers and employees where company is beneficiary (net premiums less increase in cash surrender value of policies).

426.3 Penalties.

This account shall include payments by the company for penalties or fines for violation of any regulatory statutes by the company or its officials.

426.4 Expenditures for certain civic, political and related activities.

This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification of existing referenda, legislation or ordinances) or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.

426.5 Other deductions.

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

ITEMS

1. Loss relating to investments in securities written-off or written-down.
2. Loss on sale of investments.
3. Loss on reacquisition, resale or retirement of utility's debt securities, when the loss is not amortized and used by a jurisdictional regulatory agency to increase embedded debt cost in establishing rates. See General Instruction 17.
4. Preliminary survey and investigation expenses related to abandoned projects, when not written-off to the appropriate operating expense account.
5. Costs of preliminary abandonment costs recorded in accounts 182.1, Extraordinary Property Losses, and 182.2, Unrecovered Plant and Regulatory Study Costs, not allowed to be amortized to account 407, Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs.

427 Interest on long-term debt.

A. This account shall include the amount of interest on outstanding long-term debt issued or assumed by the utility, the liability for which is included in account 221, Bonds, or account 224, Other Long-Term Debt.

B. This account shall be so kept or supported as to show the interest accruals on each class and series of long-term debt.

NOTE: This account shall not include interest on nominally issued or nominally outstanding long-term debt, including securities assumed.

428 Amortization of debt discount and expense.

A. This account shall include the amortization of unamortized debt discount and expense on outstanding long-term debt. Amounts charged to this account shall be credited concurrently to accounts 181, Unamortized Debt Expense, and 226, Unamortized Discount on Long-Term Debt—Debit.

B. This account shall be so kept or supported as to show the debt discount and expense on each class and series of long-term debt.

428.1 Amortization of loss on reacquired debt.

A. This account shall include the amortization of the losses on reacquision of debt. Amounts charged to this ccount shall be credited concurrently account 189, Unamortized Loss on eacquired Debt.

B. This account shall be maintained as to allow ready identification of e loss amortized applicable to each ass and series of long-term debt reacuired. See General Instruction 17.

9 Amortization of premium on debt—Cr.

A. This account shall include the mortization of unamortized net premium on outstanding long-term debt. mounts credited to this account shall charged concurrently to account 25, Unamortized Premium on Longerm Debt.

B. This account shall be so kept or pported as to show the premium on ch class and series of long-term ebt.

29.1 Amortization of gain on reacquired debt—Credit.

A. This account shall include the mortization of the gains realized om reacquisition of debt. Amounts redited to this account shall be harged concurrently to account 257, namortized Gain on Reacquired ebt.

B. This account shall be maintained as to allow ready identification of e gains amortized applicable to each ass and series of long-term debt reacuired. See General Instruction 17.

30 Interest on debt to associated companies.

A. This account shall include the interest accrued on amounts included in ccount 223, Advances from Associated ompanies, and on all other obligaons to associated companies.

B. The records supporting the enries to this account shall be so kept as show to whom the interest is to be aid, the period covered by the accru, the rate of interest and the princial amount of the advances or other bligations on which the interest is acrued.

31 Other interest expense.

This account shall include all interst charges not provided for elsewhere.

ITEMS

1. Interest on notes payable on demand or maturing one year or less from date and on open accounts, except notes and accounts with associated companies.
2. Interest on customers' deposits.
3. Interest on claims and judgments, tax assessments, and assessments for public improvements past due.
4. Income and other taxes levied upon bondholders of utility and assumed by it.

432 Allowance for borrowed funds used during construction—Credit.

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in Electric Plant Instruction 3(17).

434 Extraordinary income.

This account shall be credited with gains of unusual nature and infrequent occurrence, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in account 409.3, Income Taxes, Extraordinary Items. (See General Instruction 7.)

435 Extraordinary deductions.

This account shall be debited with losses of unusual nature and infrequent occurrence, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. Income tax relating to the amounts recorded in this account shall be recorded in account 409.3, Income Taxes, Extraordinary Items. (See General Instruction 7.)

Retained Earnings Chart of Accounts

433	Balance transferred from income.
436	Appropriations of retained earnings.
437	Dividends declared—preferred stock.
438	Dividends declared—common stock.
439	Adjustments to retained earnings.

Retained Earnings Accounts

433 Balance transferred from income.

This account shall include the net credit or debit transferred from income for the year.

436 Appropriations of retained earnings.

This account shall include appropriations of retained earnings.

ITEMS

1. Appropriations required under terms of mortgages, orders of courts, contracts, or other agreements.
2. Appropriations required by action of regulatory authorities.
3. Other appropriations made at option of utility for specific purposes.

437 Dividends declared—preferred stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding preferred or prior lien capital stock issued by the utility.

B. Dividends shall be segregated for each class and series of preferred stock as to those payable in cash, stock, and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

438 Dividends declared—common stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding common capital stock issued by the utility.

B. Dividends shall be segregated for each class of common stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

439 Adjustments to retained earnings.

A. This account shall, with prior Commission approval, include significant nonrecurring transactions accounted for as prior period adjustments, as follows:

(1) Correction of an error in the financial statements of a prior year.

(2) Adjustments that result from realization of income tax benefits of preacquisition operating loss carryforwards of purchased subsidiaries.

All other items of profit and loss recognized during a year shall be included in the determination of net income for that year;

B. Adjustments, charges, or credits due to losses on reacquisition, resale or retirement of the company's own capital stock shall be included in this account. (See account 210, Gain on Resale or Cancellation of Reacquired Capital Stock, for the treatment of gains.)

Operating Revenue Chart of Accounts

1. SALES OF ELECTRICITY

440 Residential sales.
442 Commercial and industrial sales.
444 Public street and highway lighting.
445 Other sales to public authorities (Major only).
446 Sales to railroads and railways (Major only).
447 Sales for resale.
448 Interdepartmental sales.
449 Other sales (Nonmajor only).
449.1 Provision for rate refunds.

2. OTHER OPERATING REVENUES

450 Forfeited discounts.
451 Miscellaneous service revenues.
453 Sales of water and water power.
454 Rent from electric property.
455 Interdepartmental rents.
456 Other electric revenues.

Operating Revenue Accounts

440 Residential sales.

A. This account shall include the net billing for electricity supplied for residential or domestic purposes.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received under each rate schedule shall be readily available.

NOTE: When electricity supplied through a single meter is used for both residential and commercial purposes, the total revenue shall be included in this account, or account 442, Commercial and Industrial Sales, according to the rate schedule which is applied. If the same rate schedules apply to residential as to commercial and industrial service, classification shall be made according to principal use.

442 Commercial and industrial sales.

A. This account shall include the net billing for electricity supplied to cus-

mers for commercial and industrial
rposes.
B. Records shall be maintained so
at the quantity of electricity sold
d the revenue received under each
te schedule shall be readily avail-
le. Records shall be maintained also
as to show separately the revenues
om commercial and industrial cus-
mers (1) which have demands gener-
ly of 1000 kw or more, and (2) those
hich have demands generally less
an 1000 kw. Reasonable deviations
ove or below the 1000 kw demand
e permissible in order that transfers
customers between the two classes
ring the year may be minimized.

NOTE A: If the utility classifies large com-
rcial and industrial customers and relat-
revenues on a lesser basis than 1000 kilo-
tts of demand, or segregates industrial
stomers and related revenues according to
ecognized definition of an industrial cus-
ner, such classifications are acceptable in
u of those otherwise required by the text
this account on the basis of 1000 kilo-
tts of demand.

NOTE B: When electricity supplied
rough a single meter is used for both com-
rcial and residential purposes, the total
enue shall be included in this account, or
account 440, Residential Sales, according
the rate schedule which is applied. If the
ne rate schedules apply to residential as
commercial and industrial service, classi-
ation shall be made according to the prin-
al use.

Public street and highway lighting.

A. This account shall include the net
ling for electricity supplied and
vices rendered for the purposes of
hting streets, highways, parks and
her public places, or for traffic or
her signal system service, for mu-
ipalities or other divisions or agen-
s of state or federal governments.
B. Records shall be maintained so
t the quantity of electricity sold
d the revenue received from each
stomer shall be readily available. In
dition, the records shall be main-
ned so as to show the revenues from
contracts which include both elec-
city and services, and (2) contracts
ich include sales of electricity only.

Other sales to public authorities (Major only).

. This account shall include the net
ing for electricity supplied to mu-
nicipalities or divisions or agencies of federal or state governments, under special contracts or agreements or service classifications applicable only to public authorities, except such revenues as are includible in accounts 444 and 447.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received from each customer.

446 Sales to railroads and railways (Major only).

A. This account shall include the net billing for electricity supplied to railroads and interurban and street railways, for general railroad use, including the propulsion of cars or locomotives, where such electricity is supplied under separate and distinct rate schedules.

B. Records shall be maintained so that the quantity of electricity sold and the revenue received from each customer shall be readily available.

NOTE: Revenues from incidental use of electricity furnished under a contract for propulsion of cars or locomotives shall be included herein.

447 Sales for resale.

A. This account shall include the net billing for electricity supplied to other electric utilities or to public authorities for resale purposes.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenue received from each customer.

NOTE: Revenues from electricity supplied to other public utilities for use by them and not for distribution, shall be included in account 442, Commercial and Industrial Sales, unless supplied under the same contract as and not readily separable from revenues includible in this account.

448 Interdepartmental sales.

A. This account shall include amounts charged by the electric department at tariff or other specified rates for electricity supplied by it to other utility departments.

B. Records shall be maintained so that the quantity of electricity supplied each other department and the charges therefor shall be readily available.

449 Other sales (Nonmajor only).

A. This account shall include revenues for electricity supplied which are not provided for elsewhere.

B. Records shall be maintained so as to show the quantity of electricity sold and the revenues received from each customer.

449.1 Provision for rate refunds.

A. This account shall be charged with provisions for the estimated pretax effects on net income of the portions of amounts being collected subject to refund which are estimated to be required to be refunded. Such provisions shall be credited to Account 229, Accumulated Provision for Rate Refunds.

B. This account shall also be charged with amounts refunded when such amounts had not been previously accrued.

C. Income tax effects relating to the amounts recorded in this account shall be recorded in account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, as appropriate.

450 Forfeited discounts.

This account shall include the amount of discounts forfeited or additional charges imposed because of the failure of customers to pay their electric bills on or before a specified date.

451 Miscellaneous service revenues.

This account shall include revenues for all miscellaneous services and charges billed to customers which are not specifically provided for in other accounts.

ITEMS

1. Fees for changing, connecting or disconnecting service.
2. Profit on maintenance of appliances, wiring, piping or other installations on customers' premises.
3. Net credit or debit (cost less net salvage and less payment from customers) on closing of work orders for plant installed for temporary service of less than one year. (See account 185, Temporary Facilities.)
4. Recovery of expenses in connection with current diversion cases (billing for the electricity consumed shall be included in the appropriate electric revenue account).

453 Sales of water and water power.

A. This account shall include revenues derived from the sale of water for irrigation, domestic, industrial or other uses, or for the development by others of water power, or for headwater benefits; also, revenues derived from furnishing water power for mechanical purposes when the investment in the property used in supplying such water or water power is carried as electric plant in service.

B. The records for this account shall be kept in such manner as to permit an analysis of the rates charged and the purposes for which the water was used.

454 Rent from electric property.

A. This account shall include rents received for the use by others of land, buildings, and other property devoted to electric operations by the utility.

B. When property owned by the utility is operated jointly with others under a definite arrangement for apportioning the actual expenses among the parties to the arrangement, any amount received by the utility for interest or return or in reimbursement of taxes or depreciation on the property shall be credited to this account.

NOTE: Do not include in this account rents from property constituting an operating unit or system. (See account 412, Revenues from Electric Plant Leased to Others.)

455 Interdepartmental rents.

This account shall include rents credited to the electric department on account of rental charges made against other departments (gas, water, etc.) of the utility. In the case of property operated under a definite arrangement to allocate the costs among the departments using the property, any reimbursement to the electric department for interest or return and depreciation and taxes shall be credited to this account.

6 Other electric revenues.

This account shall include revenues
erived from electric operations not
cludible in any of the foregoing ac-
ounts. It shall also include in a sepa-
te subaccount revenues received
om operation of fish and wildlife,
nd recreation facilities whether oper-
ed by the company or by contract
ncessionaires, such as revenues from
ases, or rentals of land for cottage,
omes, or campsites.

ITEMS

. Commission on sale or distribution of
ctricity of others when sold under rates
ed by such others.
. Compensation for minor or incidental
rvices provided for others such as custom-
billing, engineering, etc.
. Profit or loss on sale of material and
pplies not ordinarily purchased for resale
d not handled through merchandising
d jobbing accounts.
. Sale of steam, but not including sales
de by a steamheating department or
nsfers of steam under joint facility oper-
ons.
. Revenues from transmission of electrici-
of others over transmission facilities of
e utility.
. Include in a separate subaccount reve-
es in payment for rights and/or benefits
eived from others which are realized
ough research, development, and demon-
ation ventures. In the event the amounts
eived are so large as to distort revenues
the year in which received (5 percent of
income before application of the bene-
the amounts shall be credited to Ac-
nt 253, Other Deferred Credits, and am-
ized by credits to this account over a
iod not to exceed 5 years.

eration and Maintenance Expense Chart of Accounts

1. POWER PRODUCTION EXPENSES

A. STEAM POWER GENERATION

Operation

Operation supervision and engineering.
Fuel.
Steam expenses (Major only)
Steam from other sources.
Steam transferred—Credit.
Electric expenses (Major only).
Miscellaneous steam power expenses (Major only).
Rents.
Operation supplies and expenses (Nonmajor only).

Maintenance

510 Maintenance supervision and engineering (Major only).
511 Maintenance of structures (Major only).
512 Maintenance of boiler plant (Major only).
513 Maintenance of electric plant (Major only).
514 Maintenance of miscellaneous steam plant (Major only).
515 Maintenance of steam production plant (Nonmajor only).

B. NUCLEAR POWER GENERATION

Operation

517 Operation supervision and engineering (Major only).
518 Nuclear fuel expense (Major only).
519 Coolants and water (Major only).
520 Steam expenses (Major only).
521 Steam from other sources (Major only).
522 Steam transferred—Credit. (Major only).
523 Electric expenses (Major only).
524 Miscellaneous nuclear power expenses (Major only).
525 Rents (Major only).

Maintenance

528 Maintenance supervision and engineering (Major only).
529 Maintenance of structures (Major only).
530 Maintenance of reactor plant equipment (Major only).
531 Maintenance of electric plant (Major only).
532 Maintenance of miscellaneous nuclear plant (Major only).

C. HYDRAULIC POWER GENERATION

Operation

535 Operation supervision and engineering.
536 Water for power.
537 Hydraulic expenses (Major only).
538 Electric expenses (Major only).
539 Miscellaneous hydraulic power generation expenses (Major only).
540 Rents.
540.1 Operation supplies and expenses (Nonmajor only).

Maintenance

541 Maintenance supervision and engineering (Major only).
542 Maintenance of structures (Major only).
543 Maintenance of reservoirs, dams and waterways (Major only).
544 Maintenance of electric plant (Major only).

545 Maintenance of miscellaneous hydraulic plant (Major only).

545.1 Maintenance of hydraulic production plant (Nonmajor only).

D. OTHER POWER GENERATION

Operation

546 Operation supervision and engineering.

547 Fuel.

548 Generation expenses (Major only).

549 Miscellaneous other power generation expenses (Major only).

550 Rents.

550.1 Operation supplies and expenses (Nonmajor only).

Maintenance

551 Maintenance supervision and engineering (Major only).

552 Maintenance of structures (Major only).

553 Maintenance of generating and electric plant (Major only).

554 Maintenance of miscellaneous other power generation plant (Major only).

554.1 Maintenance of other power production plant (Nonmajor only).

E. OTHER POWER SUPPLY EXPENSES

555 Purchased power.

556 System control and load dispatching (Major only).

557 Other expenses.

2. Transmission Expenses

Operation

560 Operation supervision and engineering.

561 Load dispatching (Major only).

562 Station expenses (Major only).

563 Overhead line expenses (Major only).

564 Underground line expenses (Major only).

565 Transmission of electricity by others (Major only).

566 Miscellaneous transmission expenses (Major only).

567 Rents.

567.1 Operation supplies and expenses (Nonmajor only).

Maintenance

568 Maintenance supervision and engineering (Major only).

569 Maintenance of structures (Major only).

570 Maintenance of station equipment (Major only).

571 Maintenance of overhead lines (Major only).

572 Maintenance of underground lines (Major only).

573 Maintenance of miscellaneous transmission plant (Major only).

574 Maintenance of transmission plant (Nonmajor only).

3. Distribution Expenses

Operation

580 Operation supervision and engineering.

581 Load dispatching (Major only).

581.1 Line and station expenses (Nonmajor only).

582 Station expenses (Major only).

583 Overhead line expenses (Major only).

584 Underground line expenses (Major only).

585 Street lighting and signal system expenses.

586 Meter expenses.

587 Customer installations expenses.

588 Miscellaneous distribution expenses.

589 Rents.

Maintenance

590 Maintenance supervision and engineering (Major only).

591 Maintenance of structures (Major only).

592 Maintenance of station equipment (Major only).

592.1 Maintenance of structures and equipment (Nonmajor only).

593 Maintenance of overhead lines (Major only).

594 Maintenance of underground lines (Major only).

594.1 Maintenance of lines (Nonmajor only).

595 Maintenance of line transformers.

596 Maintenance of street lighting and signal systems.

597 Maintenance of meters.

598 Maintenance of miscellaneous distribution plant.

4. Customer Accounts Expenses

Operation

901 Supervision (Major only).

902 Meter reading expenses.

903 Customer records and collection expenses.

904 Uncollectible accounts.

905 Miscellaneous customer accounts expenses (Major only).

5. Customer Service and Informational Expenses

Operation

906 Customer service and informational expenses (Nonmajor only).

907 Supervision (Major only).

908 Customer assistance expenses (Major only).

909 Informational and instructional advertising expenses (Major only).

10 Miscellaneous customer service and informational expenses (Major only).

6. Sales Expenses

Operation

11 Supervision (Major only).
12 Demonstrating and selling expenses (Major only).
13 Advertising expenses (Major only).
16 Miscellaneous sales expenses (Major only).
17 Sales expenses (Nonmajor only).

7. Administrative and General Expenses

Operation

20 Administrative and general salaries.
21 Office supplies and expenses.
22 Administrative expenses transferred—Credit.
23 Outside services employed.
24 Property insurance.
25 Injuries and damages.
26 Employee pensions and benefits.
27 Franchise requirements.
28 Regulatory commission expenses.
29 Duplicate charges—Credit.
30.1 General advertising expenses.
30.2 Miscellaneous general expenses.
31 Rents.
33 Transportation expenses (Nonmajor only).

Maintenance

35 Maintenance of general plant.

peration and Maintenance Expense Accounts

0 Operation supervision and engineering.

A. For Major Utilities, this account hall include the cost of labor and exenses incurred in the general supervion and direction of the operation of eam power generating stations. irect supervision of specific activities, ich as fuel handling, boiler room oprations, generator operations, etc., hall be charged to the appropriate acount. (See operating expense instrucon 1.)

B. For Nonmajor Utilities, this acount shall include the cost of supervion and labor in the operation of eam power generating stations.

Items (Nonmajor only)

Boiler Room Labor:

1. Supervising steam production.

2. Operating fuel conveying, storage, weighing and processing equipment within boiler plant.

3. Operating boiler and boiler auxiliary equipment.

4. Operating boiler feed water purification and treatment equipment.

5. Operating ash collection and disposal equipment located inside the plant.

6. Operating boiler plant electrical equipment.

7. Keeping boiler plant log and records and preparing reports on boiler plant operations.

8. Testing boiler water.

9. Testing, checking, and adjusting meters, gauges and other instruments in boiler plant.

10. Cleaning boiler plant equipment when not incidental to maintenance work.

11. Repacking glands and replacing gauge classes where the work involved is of a minor nature and is performed by regular operating crews. Where the work is of a major character such as that performed on high pressure boilers the item should be considered as maintenance.

Electric Plant Labor:

12. Supervising electric production.

13. Operating turbines, engines, generators and exciters.

14. Operating condensers, circulating water systems and other auxiliary apparatus.

15. Operating generator cooling system.

16. Operating lubrication and oil control system, including oil purification.

17. Operating switchboards, switch gear and electric control and protective equipment.

18. Keeping electric plant log and records and preparing reports on electric plant operations.

19. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipment in electric plant.

20. Cleaning electric plant equipment when not incidental to maintenance work.

21. Repacking glands and replacing gauge glasses.

Miscellaneous Labor:

22. General clerical and stenographic work at plant.

23. Guarding and patrolling plant and yard.

24. Building service.

25. Care of grounds including snow removal, cutting grass, etc.

26. Miscellaneous labor.

501 Fuel.

A. This account shall include the cost of fuel used in the production of steam for the generation of electricity, including expenses in unloading fuel from the shipping media and handling thereof up to the point where the fuel enters the first boiler plant bunker, hopper, bucket, tank or holder of the boiler-house structure. Records shall be maintained to show the quantity, B.t.u. content and cost of each type of fuel used.

B. The cost of fuel shall be charged initially to account 151, Fuel Stock (for Nonmajor utilities, appropriate fuel accounts carried under account 154, Plant Materials and Operating Supplies) and cleared to this account on the basis of the fuel used. Fuel handling expenses may be charged to this account as incurred or charged initially to account 152, Fuel Stock Expenses Undistributed (for Nonmajor utilities, an appropriate subaccount of account 154, Plant Materials and Operating Supplies). In the latter event, they shall be cleared to this account on the basis of the fuel used. Respective amounts of fuel stock and fuel stock expenses shall be readily available.

ITEMS

Labor:

1. Supervising purchasing and handling of fuel.
2. All routine fuel analyses.
3. Unloading from shipping facility and putting in storage.
4. Moving of fuel in storage and transferring fuel from one station to another.
5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank or holder of boiler-house structure.
6. Operation of mechanical equipment, such as locomotives, trucks, cars, boats, barges, cranes, etc.

Materials and Expenses:

7. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point (Major only).
8. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point (Major only).
9. Cost of fuel including freight, switching, demurrage and other transportation charges.
10. Excise taxes, insurance, purchasing commissions and similar items.
11. Stores expenses to extent applicable to fuel.
12. Transportation and other expenses in moving fuel in storage.
13. Tools, lubricants and other supplies.
14. Operating supplies for mechanical equipment.
15. Residual disposal expenses less any proceeds from sale of residuals.

NOTE: Abnormal fuel handling expenses occasioned by emergency conditions shall be charged to expense as incurred.

502 Steam expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in production of steam for electric generation. This includes all expenses of handling and preparing fuel beginning at the point where the fuel enters the first boiler plant bunker, hopper, tank or holder of the boiler-house structure.

ITEMS

Labor:

1. Supervising steam production.
2. Operating fuel conveying, storage, weighing and processing equipment within boiler plant.
3. Operating boiler and boiler auxiliary equipment.
4. Operating boiler feed water purification and treatment equipment.
5. Operating ash-collecting and disposal equipment located inside the plant.
6. Operating boiler plant electrical equipment.
7. Keeping boiler plant log and records and preparing reports on boiler plant operation.
8. Testing boiler water.
9. Testing, checking, and adjusting meters, gauges, and other instruments and equipment in boiler plant.
10. Cleaning boiler plant equipment when not incidental to maintenance work.
11. Repacking glands and replacing gauge glasses where the work involved is of a minor nature and is performed by regular operating crews. Where the work is of a major character, such as that performed on high-pressure boilers, the item should be considered as maintenance.

Materials and Expenses:

12. Chemicals and boiler inspection fees.
13. Lubricants.
14. Boiler feed water purchased and pumping supplies.

503 Steam from other sources.

This account shall include the cost of steam purchased, or transferred from another department of the utility or from others under a joint facility operating arrangement, for use in prime movers devoted to the production of electricity.

NOTE: The records shall be so kept as to show separately for each company from which steam is purchased, the point of delivery, the quantity, the price, and the total charge. When steam is transferred from another department or from others under a joint operating arrangement, the utility shall be prepared to show full details of the cost of producing such steam, the basis of the charge to electric generation and the extent and manner of use by each department or party involved.

504 Steam transferred—Credit.

A. This account shall include credits for expenses of producing steam which are charged to others or to other utility departments under a joint operating arrangement. Include also credits for steam expenses chargeable to other electric accounts outside of the steam generation group. Full details of the basis of determination of the cost of steam transferred shall be maintained.

B. If the charges to others or to other departments of the utility include an amount for depreciation, taxes and return on the joint steam facilities, such portion of the charge shall be credited, in the case of others, to account 454, Rent from Electric Property, and in the case of other departments of the utility, to account 455, Interdepartmental Rents.

505 Electric expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in operating prime movers, generators, and their auxiliary apparatus, switch gear and other electric equipment to the points where electricity leaves for conversion for transmission or distribution.

ITEMS

Labor:

1. Supervising electric production.
2. Operating turbines, engines, generators and exciters.
3. Operating condensers, circulating water systems and other auxiliary apparatus.
4. Operating generator cooling system.
5. Operating lubrication and oil control system, including oil purification.
6. Operating switchboards, switch gear and electric control and protective equipment.
7. Keeping electric plant log and records and preparing reports on electric plant operations.
8. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipment in the electric plant.
9. Cleaning electric plant equipment when not incidental to maintenance work.
10. Repacking glands and replacing gauge glasses.

Materials and Expenses:

11. Lubricants and control system oils.
12. Generator cooling gases.
13. Circulating water purification supplies.
14. Cooling water purchased.
15. Motor and generator brushes.

506 Miscellaneous steam power expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred which are not specifically provided for or are not readily assignable to other steam generation operation expense accounts.

ITEMS

Labor:

1. General clerical and stenographic work.
2. Guarding and patrolling plant and yard.
3. Building service.
4. Care of grounds including snow removal, cutting grass, etc.
5. Miscellaneous labor.

Materials and Expenses:

6. General operating supplies, such as tools, gaskets, packing waste, gauge glasses, hose, indicating lamps, record and report forms, etc.
7. First-aid supplies and safety equipment.
8. Employees' service facilities expenses.
9. Building service supplies.
10. Communication service.
11. Miscellaneous office supplies and expenses, printing and stationery.
12. Transportation expenses.
13. Meals, traveling and incidental expenses.
14. Research, development, and demonstration expenses.

507 Rents.

This account shall include all rents of property of others used, occupied or operated in connection with steam power generation. (See operating expense instruction 3.)

508 Operation supplies and expenses (Nonmajor only).

This account shall include the cost of materials used and expenses incurred in the operation of steam power generating stations.

ITEMS

1. Chemicals and boiler inspection fees.
2. Lubricants and control system oils.
3. Boiler feed water purchased and pumping supplies.
4. Generator cooling gases.
5. Circulating water purification supplies.
6. Cooling water purchased.
7. Motor and generator brushes.
8. General operating supplies, such as tools, gaskets, packing waste, gauge glasses, hose, indicating lamps, record and report forms, etc.
9. First-aid supplies and safety equipment.
10. Employees' service facilities expenses.
11. Building service supplies.
12. Communication service.
13. Miscellaneous office supplies and expenses, printing and stationery.
14. Transportation expenses.
15. Meals, traveling and incidental expenses.

510 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of steam generation facilities. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

511 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of steam structures, the book cost of which is includible in account 311, Structures and Improvements. (See operating expense instruction 2.)

512 Maintenance of boiler plant (Major only).

A. This account shall include the cost of labor, materials used and expenses incurred in the maintenance of steam plant, the book cost of which is includible in account 312, Boiler Plant Equipment. (See operating expense instruction 2.)

B. For the purpose of making charges hereto and to account 513 Maintenance of Electric Plant, the point at which steam plant is distinguished from electric plant is defined as follows:

1. Inlet flange of throttle valve on prime mover.
2. Flange of all steam extraction lines on prime mover.
3. Hotwell pump outlet on condensate lines.
4. Inlet flange of all turbine-room auxiliaries.
5. Connection to line side of motor starter for all boiler-plant equipment.

513 Maintenance of electric plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of electric plant, the book cost of which is includible in account 313, Engines and Engine-Driven Generators, account 314, Turbogenerator Units, and account 315, Accessory Electric Equipment. (See operating expense instruction 2 and paragraph B of account 512.)

514 Maintenance of miscellaneous steam plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of miscellaneous steam generation plant, the book cost of which is includible in account 316, Miscellaneous Power Plant Equipment. (See operating expense instruction 2.)

515 Maintenance of steam production plant (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of steam production plant the book cost of which is includible in plant accounts 311 to 316, inclusive. (See operating expense instruction 2.)

517 Operation supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of nuclear power generating stations. Direct supervision of specific activities, such as fuel handling, reactor operations, generator operations, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

518 Nuclear fuel expense (Major only).

A. This account shall be debited and account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, credited for the amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the cost of nuclear fuel assemblies plus or ess the expected net salvage of uranium, plutonium, and other byproducts and unburned fuel. The utility shall adopt the necessary procedures to assure that charges to this account are distributed according to the thermal energy produced in such periods.

B. This account shall also include he costs involved when fuel is leased.

C. This account shall also include he cost of other fuels, used for ancilary steam facilities, including superheat.

D. This account shall be debited or credited as appropriate for significant changes in the amounts estimated as the net salvage value of uranium, plutonium, and other byproducts contained in account 157, Nuclear Materials Held for Sale and the amount realized upon the final disposition of the materials. Significant declines in the estimated realizable value of items carried in account 157 may be recognized at the time of market price declines by charging this account and crediting account 157. When the declining change occurs while the fuel is recorded in account 120.3, Nuclear Fuel Assemblies n Reactor, the effect shall be amortized over the remaining life of the fuel.

519 Coolants and water (Major only).

This account shall include the cost of labor, materials used and expenses incurred for heat transfer materials and water used for steam and cooling purposes.

ITEMS

Labor:

1. Operation of water supply facilities.
2. Handling of coolants and heat transfer materials.

Materials and Expenses:

3. Chemicals.
4. Additions to or refining of, fluids used in reactor systems.
5. Lubricants.
6. Pumping supplies and expenses.
7. Miscellaneous supplies and expenses.
8. Purchased water.

NOTE: Do not include in this account water for general station use or the initial charge for coolants, heat transfer or moderator fluids, chemicals or other supplies capitalized.

520 Steam expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in production of steam through nuclear processes, and similar expenses for operation of any auxiliary superheat facilities.

ITEMS

Labor:

1. Supervising steam production.
2. Fuel handling including removal, insertion, disassembly and preparation for cooling operations and shipment.
3. Testing instruments and gauges.
4. Health, safety, monitoring and decontamination activities.
5. Waste disposal.
6. Operating steam boilers and auxiliary steam, superheat facilities.

Materials and Expenses:

7. Chemical supplies.
8. Charts, logs, etc.
9. Health, safety, monitoring and decontamination supplies.
10. Boiler inspection fees.
11. Lubricants.

521 Steam from other sources (Major only).

This account shall include the cost of steam purchased or transferred from another department of the utility or from others under a joint facility operating arrangement for use in prime movers devoted to the production of electricity.

NOTE: The records shall be so kept as to show separately for each company from which steam is purchased, the point of delivery, the quantity, the price, and the total charge. When steam is transferred from another operating department, the utility shall be prepared to show full details of the cost of producing such steam, the basis of the charges to electric generation, and the extent and manner of use by each department involved.

522 Steam transferred—Credit (Major only).

A. This account shall include credits for expenses of producing steam which are charged to others or to other utility departments under a joint operating arrangement. Include also credits for steam expenses chargeable to other electric accounts outside of the steam generation group. Full details of the basis of determination of the cost of steam transferred shall be maintained.

B. If the charges to others or to other departments of the utility include an amount for depreciation, taxes and return on the joint steam facilities, such portion of the charge shall be credited, in the case of others, to account 454, Rent from Electric Property, and in the case of other departments of the utility, to account 455, Interdepartmental Rents.

523 Electric expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in operating turbogenerators, steam turbines and their auxiliary apparatus, switch gear and other electric equipment to the points where electricity leaves for conversion for transmission or distribution.

ITEMS

Labor:

1. Supervising electric production.
2. Operating turbines, engines, generators and exciters.
3. Operating condensers, circulating water systems and other auxiliary apparatus.
4. Operating generator cooling system.
5. Operating lubrication and oil control system, including oil purification.
6. Operating switchboards, switch gear and electric control and protective equipment.
7. Keeping plant log and records and preparing reports on electric plant operations.
8. Testing, checking and adjusting meters gauges, and other instruments, relays, controls and other equipment in the electri plant.
9. Cleaning electric plant equipment whe not incidental to maintenance.
10. Repacking glands and replacing gaug glasses.

Materials and Expenses:

11. Lubricants and control system oils.
12. Generator cooling gases.
13. Log sheets and charts.
14. Motor and generator brushes.

524 Miscellaneous nuclear power expens (Major only).

This account shall include the cos of labor, materials used and expense incurred which are not specificall provided for or are not readily assigna ble to other nuclear generation operation accounts.

ITEMS

Labor:

1. General clerical and stenographic work
2. Plant security.
3. Building service.
4. Care of grounds, including snow removal, cutting grass, etc.
5. Miscellaneous labor.

Materials and Expenses:

6. General operating supplies, such a tools, gaskets, hose, indicating lamps, recor and report forms, etc.
7. First-aid supplies and safety equipment
8. Employees' service facilities expenses.
9. Building service supplies.
10. Communication service.
11. Miscellaneous office supplies and expenses, printing and stationery.
12. Transportation expenses.
13. Meals, traveling and incidental expenses.
14. Research, development, and demonstration expenses.

525 Rents (Major only).

This account shall include all rents of property of others used, occupied or operated in connection with nuclear generation. (See operating expense instruction 3.)

528 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of nuclear generation facilities. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

529 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of structures, the book cost of which is includible in account 321, Structures and Improvements. (See operating expense instruction 2.)

530 Maintenance of reactor plant equipment (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of reactor plant, the book cost of which is includible in account 322, Reactor Plant Equipment. (See operating expense instruction 2.)

531 Maintenance of electric plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of electric plant, the book cost of which is includible in account 323, Turbogenerator Units, and account 324, Accessory Electric Equipment. (See operating expense instruction 2.)

532 Maintenance of miscellaneous nuclear plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of miscellaneous nuclear generating plant, the book cost of which is includible in account 325, Miscellaneous Power Plant Equipment. (See operating expense instruction 2.)

535 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of hydraulic power generating stations. Direct supervision of specific activities, such as hydraulic operation, generator operation, etc., shall be charged to the appropriate account (See operating expense instruction 1).

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of hydraulic power generating stations.

ITEMS (NONMAJOR ONLY)

Hydraulic Labor:

1. Supervising hydraulic operation.
2. Removing debris and ice from trash racks, reservoirs and waterways.
3. Patrolling reservoirs and waterways.
4. Operating intakes, spillways, sluiceways and outlet works.
5. Operating bubbler, heater or other deicing systems.
6. Ice and log jam work.
7. Operating navigation facilities.
8. Operations relating to conservation of game, fish, forests, etc.
9. Insect control activities.

Electric Labor:

10. Supervising electric production.
11. Operating prime movers, generators and auxiliary equipment.
12. Operating generator cooling system.
13. Operating lubrication and oil control systems, including oil purification.
14. Operating switchboards, switchgear and electric control and protection equipment.
15. Keeping plant log and records and preparing reports on plant operations.
16. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls and other equipment in the plant.
17. Cleaning plant equipment when not incidental to maintenance work.
18. Repacking glands.

Miscellaneous Labor:

19. General clerical and stenographic work.
20. Guarding and patrolling plant and yard.
21. Building service.
22. Care of grounds, including snow removal, cutting grass, etc.
23. Snow removal from roads and bridges.
24. Miscellaneous labor.

536 Water for power.

This account shall include the cost of water used for hydraulic power generation.

ITEMS

1. Cost of water purchased from others, including water tolls paid reservoir companies.
2. Periodic payments for licenses or permits from any governmental agency for

water rights, or payments based on the use of the water.

3. Periodic payments for riparian rights.

4. Periodic payments for headwater benefits or for detriments to others.

5. Cloud seeding.

537 Hydraulic expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in operating hydraulic works including reservoirs, dams, and waterways, and in activities directly relating to the hydroelectric development outside the generating station. It shall also include the cost of labor, materials used and other expenses incurred in connection with the operation of (a) fish and wildlife, and (b) recreation facilities. Separate subaccounts shall be maintained for each of the above.

Items

Labor:

1. Supervising hydraulic operation.

2. Removing debris and ice from trash racks, reservoirs and waterways.

3. Patrolling reservoirs and waterways.

4. Operating intakes, spillways, sluiceways, and outlet works.

5. Operating bubbler, heater or other deicing systems.

6. Ice and log jam work.

7. Operating navigation facilities.

8. Operations relating to conservation of game, fish, forests, etc.

9. Insect control activities.

Materials and Expenses:

10. Insect control materials.

11. Lubricants, packing, and other supplies used in operation of hydraulic equipment.

12. Transportation expense.

538 Electric expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in operating prime movers, generators, and their auxiliary apparatus, switchgear, and other electric equipment, to the point where electricity leaves for conversion for transmission or distribution.

Items

Labor:

1. Supervising electric production.

2. Operating prime movers, generators and auxiliary equipment.

3. Operating generator cooling system.

4. Operating lubrication and oil control systems, including oil purification.

5. Operating switchboards, switchgear, and electric control and protection equipment.

6. Keeping plant log and records and preparing reports on plant operations.

7. Testing, checking and adjusting meters, gauges, and other instruments, relays, controls, and other equipment in the plant.

8. Cleaning plant equipment when not incidental to maintenance work.

9. Repacking glands.

Materials and Expenses:

10. Lubricants and control system oils.

11. Motor and generator brushes.

539 Miscellaneous hydraulic power generation expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred which are not specifically provided for or are not readily assignable to other hydraulic generation operation expense accounts.

Items

Labor:

1. General clerical and stenographic work.

2. Guarding and patrolling plant and yard.

3. Building service.

4. Care of grounds including snow removal, cutting grass, etc.

5. Snow removal from roads and bridges.

6. Miscellaneous labor.

Materials and Expenses:

7. General operating supplies, such as tools, gaskets, packing, waste, hose, indicating lamps, record and report forms, etc.

8. First-aid supplies and safety equipment.

9. Employees' service facilities expenses.

10. Building service supplies.

11. Communication service.

12. Office supplies, printing and stationery.

13. Transportation expenses.

14. Fuel.

15. Meals, traveling and incidental expenses.

16. Research, development, and demonstration expenses.

540 Rents.

This account shall include all rents of property of others used, occupied or operated in connection with hydraulic power generation, including amounts payable to the United States for the occupancy of public lands and reservations for reservoirs, dams, flumes, forebays, penstocks, power houses, etc., but not including transmission right of way. (See operating expense instruction 3.)

540.1 Operation supplies and expenses (Nonmajor only).

This account shall include the cost of materials used and expenses incurred in the operation of hydraulic power generating stations.

Items

1. Insect control materials.
2. Lubricants, packing, and other supplies used in operation of hydraulic equipment.
3. Supplies and expenses in conservation of game, fish, forests, etc.
4. Transportation expense.
5. Control system oils.
6. Motor and generator brushes.
7. General operating supplies, such as tools, gaskets, packing, waste hose, indicating lamps, record and report forms, etc.
8. First-aid supplies and safety equipment.
9. Employees' service facilities expenses.
10. Building service supplies.
11. Communication service.
12. Office supplies, printing and stationery.
13. Transportation expenses.
14. Fuel.
15. Meals, traveling and incidental expenses.

541 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the maintenance of hydraulic power generating stations. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

542 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of hydraulic structures, the book cost of which is includible in Account 331, Structures and Improvements. (See operating expense instruction 2) However, the cost of labor, materials used and expenses incurred in the maintenance of fish and wildlife, and recreation facilities, the book cost of which is includible in Account 331, Structures and Improvements, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

543 Maintenance of reservoirs, dams, and waterways (Major only).

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant includible in Account 332, Reservoirs, Dams, and Waterways. (See operating expense instruction 2) However, the cost of labor materials used and expenses incurred in the maintenance of fish and wildlife, and recreation facilities, the book cost of which is includible in Account 332, Reservoirs, Dams and Waterways, shall be charged to Account 545, Maintenance of Miscellaneous Hydraulic Plant.

544 Maintenance of electric plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of plant includible in Account 333, Water Wheels, Turbines and Generators, and account 334, Accessory Electric Equipment. (See operating expense instruction 2.)

545 Maintenance of miscellaneous hydraulic plant (Major only).

This account shall include the cost of labor, materials used, and expenses incurred in maintenance of plant, the book cost of which is includible in Account 335, Miscellaneous Power Plant Equipment, and Account 336, Roads, Railroads and Bridges. (See operating expense instruction 2.) It shall also include the cost of labor, materials used and other expenses incurred in the maintenance of (a) fish and wildlife, and (b) recreation facilities. Separate subaccounts shall be maintained for each of the above.

545.1 Maintenance of hydraulic production plant (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of hydraulic production plant the book cost of which is includible in plant accounts 331 to 336, inclusive. (See operating expense instruction 2.)

546 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of other power generating stations. Direct supervision of specific activities, such as fuel handling, engine and generator operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of other power generating stations.

Generating Labor:

1. Supervising other power generation operation.
2. Operating prime movers, generators and auxiliary apparatus and switching and other electric equipment.
3. Keeping plant log and records and preparing reports on plant operations.
4. Testing, checking, cleaning, oiling and adjusting equipment.

Miscellaneous Labor:

5. General clerical and stenographic work.
6. Guarding and patrolling plant and yard.
7. Building service.
8. Care of grounds, including snow removal, cutting grass, etc.
9. Miscellaneous labor.

547 Fuel.

This account shall include the cost delivered at the station (see account 151, Fuel Stock, for Major utilities, and account 154, Plant Materials and Operating Supplies, for Nonmajor utilities) of all fuel, such as gas, oil, kerosene, and gasoline used in other power generation.

548 Generation expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in operating prime movers, generators and electric equipment in other power generating stations, to the point where electricity leaves for conversion for transmission or distribution.

ITEMS

Labor:

1. Supervising other power generation operation.
2. Operating prime movers, generators and auxiliary apparatus and switching and other electric equipment.
3. Keeping plant log and records and preparing reports on plant operations.
4. Testing, checking, cleaning, oiling and adjusting equipment.

Materials and Expenses:

5. Dynamo, motor, and generator brushes.
6. Lubricants and control system oils.
7. Water for cooling engines and generators.

549 Miscellaneous other power generation expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the operation of other power generating stations which are not specifically provided for or are not readily assignable to other generation expense accounts.

ITEMS

Labor:

1. General clerical and stenographic work.
2. Guarding and patrolling plant and yard.
3. Building service.
4. Care of grounds, including snow removal, cutting grass, etc.
5. Miscellaneous labor.

Materials and Expenses:

6. Building service supplies.
7. First-aid supplies and safety equipment.
8. Communication service.
9. Employees' service facilities expenses.
10. Office supplies, printing and stationery.
11. Transportation expense.
12. Meals, traveling and incidental expenses.
13. Fuel for heating.
14. Water for fire protection or general use.
15. Miscellaneous supplies, such as hand tools, drills, saw blades, files, etc.
16. Research, development, and demonstration expenses.

550 Rents.

This account shall include all rents of property of others used, occupied, or operated in connection with other power generation. (See operating expense instruction 3.)

550.1 Operation supplies and expenses (Nonmajor only).

This account shall include the cost of materials used and expenses incurred in the operation of other power generating stations.

ITEMS

1. Dynamo, motor, and generator brushes.
2. Lubricants and control system oils.
3. Water for cooling engines and generators.
4. Building service supplies.
5. First-aid supplies and safety equipment.
6. Communication service.
7. Employees' service facilities expenses.
8. Office supplies, printing and stationery.
9. Transportation expense.
10. Meals, traveling and incidental expenses.
11. Fuel for heating.
12. Water for fire protection or general use.
13. Miscellaneous supplies, such as hand tools, drills, saw blades, files, etc.

551 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the maintenance of other power generating stations. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

552 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of facilities used in other power generation, the book cost of which is includible in account 341, Structures and Improvements, and account 342, Fuel Holders, Producers and Accessories. (See operating expense instruction 2.)

553 Maintenance of generating and electric equipment (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of plant, the book cost of which is includible in account 343, Prime Movers, account 344, Generators, and account 345, Accessory Electric Equipment. (See operating expense instruction 2.)

554 Maintenance of miscellaneous other power generation plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of other power generation plant, the book cost of which is includible in account 346, Miscellaneous Power Plant Equipment. (See operating expense instruction 2.)

554.1 Maintenance of other power production plant (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of other power generation plant, the book cost of which is includible in plant accounts 341 to 346, inclusive. (See operating expense instruction 2.)

555 Purchased power.

A. This account shall include the cost at point of receipt by the utility of electricity purchased for resale. It shall include, also, net settlements for exchange of electricity or power, such as economy energy, off-peak energy for on-peak energy, spinning reserve capacity, etc. In addition, the account shall include the net settlements for transactions under pooling or interconnection agreements wherein there is a balancing of debits and credits for energy, capacity, etc. Distinct purchases and sales shall not be recorded as exchanges and net amounts only recorded merely because debit and credit amounts are combined in the voucher settlement.

B. The records supporting this account shall show, by months, the demands and demand charges, kilowatt-hours and prices thereof under each purchase contract and the charges and credits under each exchange or power pooling contract.

556 System control and load dispatching (Major only).

This account shall include the cost of labor and expenses incurred in load dispatching activities for system control Utilities having an interconnected electric system or operating under a central authority which controls the production and dispatching of electricity may apportion these costs to this account and accounts 561, Load Dispatching—Transmission, and 581, Load Dispatching—Distribution.

Items

Labor:

1. Allocating loads to plants and interconnections with others.
2. Directing switching.
3. Arranging and controlling clearances for construction, maintenance, test and emergency purposes.
4. Controlling system voltages.
5. Recording loadings, water conditions, etc.
6. Preparing operating reports and data for billing and budget purposes.
7. Obtaining reports on the weather and special events.

Expenses:

8. Communication service provided for system control purposes.
9. System record and report forms.
10. Meals, traveling and incidental expenses.
11. Obtaining weather and special events reports.

557 Other expenses.

A. This account shall be charged with any production expenses including expenses incurred directly in connection with the purchase of electricity, which are not specifically provided for in other production expense accounts. Charges to this account shall be supported so that a description of each type of charge will be readily available.

B. Recoveries from insurance companies, under use and occupancy provisions of policies, of amounts in reimbursement of excessive or added production costs for which the insurance company is liable under the terms of the policy shall be credited to this account.

560 Operation supervision and engineering.

A. For Major utilities, this account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the transmission system as a whole. Direct supervision of specific activities, such as station operation, line operation, etc., shall be charged to the appropriate account. (See operating expense instruction 1.)

B. For Nonmajor utilities, this account shall include the cost of supervision and labor in the operation of the transmission system.

Items (Nonmajor Only)

Load Dispatching Labor:

1. Direct switching.
2. Arranging and controlling clearances for construction, maintenance, test and emergency purposes.
3. Controlling system voltages.
4. Obtaining reports on the weather and special events.
5. Preparing operating reports and data for billing and budget purposes.

Station Labor:

6. Supervising station operation.
7. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine or changing voltage of regulators changing station transformer taps.
8. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
9. Keeping station log and records and preparing reports on station operation.
10. Operating switching and other station equipment.
11. Standing watch, guarding and patrolling station and station yard.
12. Sweeping, mopping and tidying station.
13. Care of grounds, including snow removal, cutting grass, etc.

Line Labor:

14. Supervising line operation.
15. Inspecting and testing lightning arresters, circuit breakers, switches and grounds.
16. Load tests of circuits.
17. Routine line patrolling.
18. Routine voltage surveys made to determine the condition of efficiency of transmission system.
19. Transfering loads, switching and reconnecting circuits and equipment for operating purposes. (Switching for construction or maintenance purposes is not includible in this account.)
20. Routine inspection and cleaning of manholes, conduit, network and transformer vaults.
21. Electrolysis surveys.
22. Inspecting and adjusting line testing equipment such as voltmeters, ammeters, wattmeters, etc.
23. Regulation and addition of oil or gas in high voltage cable systems.

Miscellaneous Labor:

24. General records of physical characteristics of lines and stations, such as capacities, etc.
25. Ground resistance records.

26. Janitorial work at transmission office uildings, including care of grounds, snow emoval, cutting grass, etc.
27. Joint pole maps and prints.
28. Line load and voltage records.
29. Preparing maps and prints.
30. General clerical and stenographic ork.
31. Miscellaneous labor.

61 Load dispatching (Major only).

This account shall include the cost f labor, materials used and expenses ncurred in load dispatching operations pertaining to the transmission f electricity.

ITEMS

abor:
1. Directing switching.
2. Arranging and controlling clearances or construction, maintenance, test and mergency purposes.
3. Controlling system voltages.
4. Obtaining reports on the weather and pecial events.
5. Preparing operating reports and data or billing and budget purposes.

xpenses:
6. Communication service provided for ystem control purposes.
7. System record and report forms.
8. Meals, traveling and incidental expenses.
9. Obtaining weather and special events eports.

62 Station expenses (Major only).

This account shall include the cost f labor, materials used and expenses ncurred in operating transmission ubstantions and switching stations. If ansmissioh station equipment is loated in or adjacent to a generating ation the expenses applicable to ansmission station operations shall evertheless be charged to this acount.

ITEMS

abor:
1. Supervising station operation.
2. Adjusting station equipment where ch adjustment primarily affects performnce, such as regulating the flow of cooling ater, adjusting current in fields of a maine or changing voltage of regulators, anging station transformer taps.
3. Inspecting, testing and calibrating staon equipment for the purpose of checking performance.
4. Keeping station log and records and eparing reports on station operation.
5. Operating switching and other station equipment.
6. Standing watch, guarding, and patrolling station and station yard.
7. Sweeping, mopping, and tidying station.
8. Care of grounds, including snow removal, cutting grass, etc.

Materials and Expenses:
9. Building service expenses.
10. Operating supplies, such as lubricants, commutator brushes, water, and rubber goods.
11. Station meter and instrument supplies, such as ink and charts.
12. Station record and report forms.
13. Tool expense.
14. Transportation expenses.
15. Meals, traveling, and incidental expenses.

563 Overhead line expenses (Major only).

564 Underground line expenses (Major only).

A. These accounts shall include the cost of labor, materials used and expenses incurred in the operation of transmission lines.

B. If the expenses are not substantial for both overhead and underground lines, these accounts may be combined.

ITEMS

Labor:
1. Supervising line operation.
2. Inspecting and testing lightning arresters, circuit breakers, switches, and grounds
3. Load tests of circuits.
4. Routine line patrolling.
5. Routine voltage surveys made to determine the condition or efficiency of transmission system.
6. Transferring loads, switching and reconnecting circuits and equipment for operating purposes. (Switching for construction or maintenance purposes is not includible in this account.)
7. Routine inspection and cleaning of manholes, conduit, network and transformer vaults.
8. Electrolysis surveys.
9. Inspecting and adjusting line-testing equipment, such as voltmeters, ammeters, wattmeters, etc.
10. Regulation and addition of oil or gas in high-voltage cable systems.

Materials and Expenses:
11. Transportation expenses.
12. Meals, traveling and incidental expenses.
13. Tool expenses.

14. Operating supplies, such as instrument charts, rubber goods, etc.

565 Transmission of electricity by others (Major only).

This account shall include amounts payable to others for the transmission of the utility's electricity over transmission facilities owned by others.

566 Miscellaneous transmission expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in transmission map and record work, transmission office expenses, and other transmission expenses not provided for elsewhere.

ITEMS

Labor:

1. General records of physical characteristics of lines and stations, such as capacities, etc.
2. Ground resistance records.
3. Janitor work at transmission office buildings, including care of grounds, snow removal, cutting grass, etc.
4. Joint pole maps and records.
5. Line load and voltage records.
6. Preparing maps and prints.
7. General clerical and stenographic work.
8. Miscellaneous labor.

Materials and Expenses:

9. Communication service.
10. Building service supplies.
11. Map and record supplies.
12. Transmission office supplies and expenses, printing and stationery.
13. First-aid supplies.
14. Research, development, and demonstration expenses.

567 Rents.

This account shall include rents of property of others used, occupied, or operated in connection with the transmission system, including payments to the United States and others for use of public or private lands and reservations for transmission line rights of way. (See operating expense instruction 3.)

567.1 Operation supplies and expenses (Nonmajor only).

This account shall include the cost of materials used and expenses incurred in the operation of the transmission system.

ITEMS

1. Building service expenses.
2. Operating supplies, such as lubricants, commutator brushes, water, and rubber goods.
3. Station meter and instrument supplies, such as ink and charts.
4. Station record and report forms.
5. Communication service.
6. First-aid supplies.
7. Tool expense.
8. Transportation expenses.
9. Meals, traveling, and incidental expenses.

568 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of the transmission system. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

569 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of structures, the book cost of which is includible in account 352, Structures and Improvements. (See operating expense instruction 2.)

570 Maintenance of station equipment (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of station equipment the book cost of which is includible in account 353, Station Equipment. (See operating expense instruction 2.)

571 Maintenance of overhead lines (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of transmission plant, the book cost of which is includible in accounts 354, Towers and Fixtures, 355, Poles and Fixtures, 356, Overhead Conductors and Devices, 359, Roads and Trails. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on poles, towers and fixtures:

a. Installing or removing additional clamps or strain insulators on guys in place.

b. Moving line or guy pole in relocation of the same pole or section of line.

c. Painting poles, towers, crossarms or pole extensions.

d. Readjusting and changing position of guys or braces.

e. Realigning and straightening poles, cross arms braces, and other pole fixtures.

f. Reconditioning reclaimed pole fixtures.

g. Relocating crossarms, racks, brackets, and other fixtures on poles.

h. Repairing or realigning pins, racks, or brackets.

i. Repairing pole supported platform.

j. Repairs by others to jointly owned poles.

k. Shaving, cutting rot, or treating poles or crossarms in use or salvaged for reuse.

l. Stubbing poles already in service.

m. Supporting fixtures and conductors and transferring them to new pole during poles replacements.

n. Maintenance of pole signs, stencils, tags, etc.

2. Work of the following character on overhead conductors and devices:

a. Overhauling and repairing line cutouts, line switches, line breakers, etc.

b. Cleaning insulators and bushings.

c. Refusing cutouts.

d. Repairing line oil circuit breakers and associated relays and control wiring.

e. Repairing grounds.

f. Resagging, retying, or rearranging position or spacing of conductors.

g. Standing by phones, going to calls, cutting faulty lines clear, or similar activities at times of emergencies.

h. Sampling, testing, changing, purifying, and replenishing insulating oil.

i. Repairing line testing equipment.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Trimming trees and clearing brush.

l. Chemical treatment of right of way areas when occurring subsequent to construction of line.

3. Work of the following character on roads and trails:

a. Repairing roadway, bridges, etc.

b. Trimming trees and brush to maintain previous roadway clearance.

c. Snow removal from roads and trails.

d. Maintenance work on publicly owned roads and trails when done by utility at its expense.

572 Maintenance of underground lines (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of transmission plant, the book cost of which is includible in accounts 357, Underground Conduit, and 358, Underground Conductors and Devices. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on underground conduit:

a. Cleaning ducts, manholes, and sewer connections.

b. Minor alterations of handholes, manholes, or vaults.

c. Refastening, repairing, or moving racks, ladders, or hangers in manholes, or vaults.

d. Plugging and shelving or replugging ducts.

e. Repairs to sewers and drains, walls and floors, rings and covers.

2. Work of the following character on underground conductors and devices:

a Repairing oil circuit breakers, switches, cutouts, and control wiring.

b. Repairing grounds.

c. Retraining and reconnecting cables in manhole, including transfer of cables from one duct to another.

d. Repairing conductors and splices.

e. Repairing or moving junction boxes and potheads.

f. Refireproofing of cables and repairing supports.

g. Repairing electrolysis preventive devices for cables.

h. Repairing cable bonding systems.

i. Sampling, testing, changing, purifying and replenishing insulating oil.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Repairing line testing equipment.

l. Repairs to oil or gas equipment in high-voltage cable system and replacement of oil or gas.

573 Maintenance of miscellaneous transmission plant (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of owned or leased plant which is assignable to transmission operations and is not provided for elsewhere. (See operating expense instruction 2.)

574 Maintenance of transmission plant (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of transmission plant the book cost of which is includible in plant accounts 351 to 359 inclusive. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on poles, towers and fixtures:

a. Installing or removing additional clamps or strain insulators on guys in place.

b. Moving line or guy pole in relocation of the same pole or section of line.

c. Painting poles, towers, crossarms or pole extensions.

d. Readjusting and changing position of guys or braces.

e. Realigning and straightening poles, crossarms, braces and other pole fixtures.

f. Reconditioning reclaimed pole fixtures.

g. Relocating crossarms, racks, brackets, and other fixtures on poles.

h. Repairing or realigning pins, racks, or brackets.

i. Repairing pole supported platform.

j. Repairs by others to jointly owned poles.

k. Shaving, cutting rot, or treating poles or crossarms in use or salvaged for reuse.

l. Stubbing poles already in service.

m. Supporting fixtures and conductors and transferring them to new pole during pole replacement.

n. Maintenance of pole signs, stencils, tags, etc.

2. Work of the following character on overhead conductors and devices:

a. Overhauling and repairing line cutouts, line switches, line breakers, etc.

b. Cleaning insulators and bushings.

c. Refusing cutouts.

d. Repairing line oil circuit breakers and associated relays and control wiring.

e. Repairing grounds.

f. Resagging, retying, or rearranging position or spacing of conductors.

g. Standing by phones, going to calls, cutting faulty lines clear, or similar activities at times of emergencies.

h. Sampling, testing, changing, purifying, and replenishing insulating oil.

i. Repairing line testing equipment.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Trimming trees and clearing brush.

l. Chemical treatment of right of way areas when occurring subsequent to construction of line.

3. Work of the following character on roads and trails:

a. Repairing roadway, bridges, etc.

b. Trimming trees and brush to maintain previous roadway clearance.

c. Snow removal from roads and trails.

d. Maintenance work on publicly owned roads and trails when done by utility at its expense.

4. Work of the following character on underground conduit:

a. Cleaning ducts, manholes, and sewer connections.

b. Minor alterations of handholes, manholes, or vaults.

c. Refasting, repairing, or moving racks, ladders, or hangers in manholes, or vaults.

d. Plugging and shelving or replugging ducts.

e. Repairs to sewers and drains, walls and floors, rings and covers.

5. Work of the following character on underground conductors and devices:

a. Repairing oil circuit breakers, switches, cutouts, and control wiring.

b. Repairing grounds.

c. Retraining and reconnecting cables in manhole, including transfer of cables from one duct to another.

d. Repairing conductors and splices.

e. Repairing or moving junction boxes and potheads.

f. Refireproofing of cables and repairing supports.

g. Repairing electrolysis preventive devices for cables.

h. Repairing cable bonding systems.

i. Sampling, testing, changing, purifying and replenishing insulating oil.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Repairing line testing equipment.

l. Repairs to oil or gas equipment in high voltage cable system and replacement of oil or gas.

580 Operation supervision and engineering.

This account shall include the cost of labor and expenses incurred in the general supervision and direction of the operation of the distribution system. Direct supervision of specific activities, such as station operation, line operation, meter department operation, etc., shall be charged to the appropriate account. (For Major utilities, see operating expense instruction 1.)

581 Load dispatching (Major only).

This account (the keeping of which is optional with the utility) shall include the cost of labor, materials used and expenses incurred in load dispatching operations pertaining to the distribution of electricity.

ITEMS

Labor:

1. Directing switching.
2. Arranging and controlling clearances for construction, maintenance, test and emergency purposes.
3. Controlling system voltages.
4. Preparing operating reports.
5. Obtaining reports on the weather and special events.

Expenses:

6. Communication service provided for system control purposes.
7. System record and report forms.
8. Meals, traveling and incidental expenses.

581.1 Line and station supplies and expenses (Nonmajor only).

582 Station expenses (Major only).

583 Overhead line expenses (Major only).

584 Underground line expenses (Major only).

Accounts 581.1 through 584 shall include, respectively, the cost of labor, materials used and expenses incurred in the operation of overhead and underground distribution lines and stations.

ITEMS

Line Labor:

1. Supervising line operation.
2. Changing line transformer taps.
3. Inspecting and testing lightning arresters, line circuit breakers, switches and grounds.
4. Inspecting and testing line transformers for the purpose of determining load, temperature or operating performance.
5. Patrolling lines.
6. Load tests and voltages surveys of feeders, circuits and line transformers.
7. Removing line transformers and voltage regulators with or without replacements.
8. Installing line transformers or voltage regulators with or without change in capacity provided that the first installation of these items is included in account 368, Line transformers.
9. Voltage surveys, either routine or upon request of customers, including voltage tests at customers' main switch.
10. Transferring loads, switching and reconnecting circuits and equipment for operation purposes.
11. Electrolysis surveys.
12. Inspecting and adjusting line testing equipment.

Line Supplies and Expenses:

13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expense.
16. Operating supplies, such as instrument charts, rubber goods, etc.

Station Labor:

1. Supervising station operation.
2. Adjusting station equipment where such adjustment primarily affects performance, such as regulating the flow of cooling water, adjusting current in fields of a machine, changing voltage of regulators or changing station transformer taps
3. Keeping station log and records and preparing reports on station operation.
4. Inspecting, testing and calibrating station equipment for the purpose of checking its performance.
5. Operating switching and other station equipment.
6. Standing watch, guarding and patrolling station and station yard.
7. Sweeping, mopping and tidying station.
8. Care of grounds, including snow removal, cutting grass, etc.

Station Supplies and Expenses:

9. Building service expenses.
10. Operating supplies, such as lubricants, commutator brushes, water and rubber goods.
11. Station meter and instrument supplies, such as ink and charts.
12. Station record and report forms.
13. Tool expenses.
14. Transportation expenses.
15. Meals, traveling and incidental expenses.

NOTE (MAJOR ONLY): If the utility owns storage battery equipment used for supplying electricity to customers in periods of emergency, the cost of operating labor and of supplies, such as acid, gloves, hydrometers, thermometers, soda, automatic cell fillers, acid proof shoes, etc., shall be included in this account. If significant in amount, a separate subdivision shall be maintained for such expenses.

585 Street lighting and signal system expenses.

A. For Nonmajor utilities, this account shall include the cost of labor, materials used and expenses incurred in the operation of street lighting and signal system plant.

B. For Major utilities, this account shall include the cost of labor, materials used and expenses incurred in: (a) The operation of street lighting and signal system plant which is owned or leased by the utility; and (b) the operation and maintenance of such plant owned by customers where such work is done regularly as a part of the street lighting and signal system service.

ITEMS

Labor:

1. Supervising street lighting and signal systems operation.

2. Replacing lamps and incidental cleaning of glassware and fixtures in connection therewith.

3. Routine patrolling for lamp outages, extraneous nuisances or encroachments, etc.

4. Testing lines and equipment including voltage and current measurement.

5. Winding and inspection of time switch and other controls.

Materials and Expenses:

6. Street lamp renewals.

7. Transportation and tool expense.

8. Meals, traveling, and incidental expenses.

586 Meter expenses.

This account shall include the cost of labor, materials used and expenses incurred in the operation of customer meters and associated equipment.

ITEMS

Labor:

1. Supervising meter operation.

2. Clerical work on meter history and associated equipment record cards, test cards, and reports.

3. Disconnecting and reconnecting, removing and reinstalling, sealing and unsealing meters and other metering equipment in connection with initiating or terminating services including the cost of obtaining meter readings, if incidental to such operation.

4. Consolidating meter installations due to elimination of separate meters for different rates of service.

5. Changing or relocating meters, instrument transformers, time switches, and other metering equipment.

6. Resetting time controls, checking operation of demand meters and other metering equipment, when done as an independent operation.

7. Inspecting and adjusting meter testing equipment.

8. Inspecting and testing meters, instrument transformers, time switches, and other metering equipment on premises or in shops excluding inspecting and testing incidental to maintenance

Materials and Expenses:

9. Meter seals and miscellaneous meter supplies.

10. Transportation expenses.

11. Meals, traveling, and incidental expenses.

12. Tool expenses.

NOTE: The cost of the first setting and testing of a meter is chargeable to utility plant account 370, Meters.

587 Customer installations expenses.

This account shall include the cost of labor, materials used and expenses incurred in work on customer installations in inspecting premises and in rendering services to customers of the nature of those indicated by the list of items hereunder.

ITEMS

Labor:

1. Supervising customer installations work.

2. Inspecting premises, including check of wiring for code compliance.

3. Investigating, locating, and clearing grounds on customers' wiring.

4. Investigating service complaints, including load tests of motors and lighting and power circuits on customers' premises; field investigations of complaints on bills or of voltage.

5. Installing, removing, renewing, and changing lamps and fuses.

6. Radio, television and similar interference work including erection of new aerials on customers' premises and patrolling of lines, testing of lightning arresters, inspection of pole hardware, etc., and examination on or off premises of customers' appliances wiring, or equipment to locate cause of interference.

7. Installing, connecting, reinstalling, or removing leased property on customers premises.

8. Testing, adjusting, and repairing customers' fixtures and appliances in shop or on premises.

9. Cost of changing customers' equipment due to changes in service characteristics.

10. Investigation of current diversion including setting and removal of check meters and securing special readings thereon; special calls by employees in connection with discovery and settlement of current diversion; changes in customer wiring and any other labor cost identifiable as caused by current diversion.

Materials and Expenses:

11. Lamp and fuse renewals.

12. Materials used in servicing customers' ixtures, appliances and equipment.

13. Power, light, heat, telephone, and ther expenses of appliance repair depart-ent.

14. Tool expense.

15. Transportation expense, including ickup and delivery charges.

16. Meals, traveling and incidental ex-enses.

17. Rewards paid for discovery of current iversion.

Note A: Amounts billed customers for any ork, the cost of which is charged to this ccount, shall be credited to this account. ny excess over costs resulting therefrom hall be transferred to account 451, Miscel-aneous Service Revenues.

Note B: Do not include in this account ex-enses incurred in connection with mer-handising, jobbing and contract work.

88 Miscellaneous distribution expenses.

This account shall include the cost f labor, materials used and expenses ncurred in distribution system oper-tion not provided for elsewhere.

Items

abor:

1. General records of physical characteris-ics of lines and substations, such as capac-ies, etc.

2. Ground resistance records.

3. Joint pole maps and records.

4. Distribution system voltage and load ecords.

5. Preparing maps and prints.

6. Service interruption and trouble ecords.

7. General clerical and stenographic work xcept that chargeable to account 586, leter expenses.

xpenses:

8. Operating records covering poles, trans-ormers, manholes, cables, and other distri-ution facilities. Exclude meter records hargeable to account 586. Meter Expenses nd station records chargeable to account 82, Station Expenses (For Nonmajor utili-ies, account 581.1, Line and Station Ex-enses), and stores records (For Nonmajor tilities, station records) chargeable to ac-ount 163, Stores Expense Undistributed For Nonmajor utilities, account 581.1, Line nd Station Expenses).

9. Janitor work at distribution office uildings including snow removal, cutting rass, etc.

laterials and Expenses:

10. Communication service.

11. Building service expenses.

12. Miscellaneous office supplies and expenses, printing, and stationery, maps and records and first-aid supplies.

13. Research, development, and demonstration expenses (Major only).

589 Rents.

This account shall include rents of property of others used, occupied, or operated in connection with the distribution system, including payments to the United States and others for the use and occupancy of public lands and reservations for distribution line rights of way. (See operating expense instruction 3.)

590 Maintenance supervision and engineering (Major only).

This account shall include the cost of labor and expenses incurred in the general supervision and direction of maintenance of the distribution system. Direct field supervision of specific jobs shall be charged to the appropriate maintenance account. (See operating expense instruction 1.)

591 Maintenance of structures (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of structures, the book cost of which is includible in account 361, Structures and Improvements. (See operating expense instruction 2.)

592 Maintenance of station equipment (Major only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of plant, the book cost of which is includible in account 362, Station Equipment, and account 363, Storage Battery Equipment. (See operating expense instruction 2.)

592.1 Maintenance of structures and equipment (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in maintenance of structures, the book cost of which is includible in account 361, Structures and Improvements, account 362, Station Equipment, and account 363, Storage Battery Equipment. (See operating expense instruction 2.)

593 Maintenance of overhead lines (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of overhead distribution line facilities, the book cost of which is includible in account 364, Poles, Towers and Fixtures, account 365, Overhead Conductors and Devices, and account 369, Services. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on poles, towers, and fixtures:

a. Installing additional clamps or removing clamps or strain insulators on guys in place.

b. Moving line or guy pole in relocation of pole or section of line.

c. Painting poles, towers, crossarms, or pole extensions.

d. Readjusting and changing position of guys or braces.

e. Realigning and straightening poles, crossarms, braces, pins, racks, brackets, and other pole fixtures.

f. Reconditioning reclaimed pole fixtures.

g. Relocating crossarms, racks, brackets, and other fixtures on poles.

h. Repairing pole supported platform.

i. Repairs by others to jointly owned poles.

j. Shaving, cutting rot, or treating poles or crossarms in use or salvaged for reuse.

k. Stubbing poles already in service.

l. Supporting conductors, transformers, and other fixtures and transferring them to new poles during pole replacements.

m. Maintaining pole signs, stencils, tags, etc.

2. Work of the following character on overhead conductors and devices:

a. Overhauling and repairing line cutouts, line switches, line breakers, and capacitor installations.

b. Cleaning insulators and bushings.

c. Refusing line cutouts.

d. Repairing line oil circuit breakers and associated relays and control wiring.

e. Repairing grounds.

f. Resagging, retying, or rearranging position or spacing of conductors.

g. Standing by phones, going to calls, cutting faulty lines clear, or similar activities at times of emergency.

h. Sampling, testing, changing, purifying, and replenishing insulating oil.

i. Transferring loads, switching, and reconnecting circuits and equipment for maintenance purposes.

j. Repairing line testing equipment.

k. Trimming trees and clearing brush.

l. Chemical treatment of right of way area when occurring subsequent to construction of line.

3. Work of the following character on overhead services:

a. Moving position of service either on pole or on customers' premises.

b. Pulling slack in service wire.

c. Retying service wire.

d. Refastening or tightening service bracket.

594 Maintenance of underground line (Major only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of underground distribution line facilities, the book cost of which is includible in account 366, Underground Conduit, account 367, Underground Conductors and Devices, and account 369, Services. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on underground conduit:

a. Cleaning ducts, manholes, and sewer connections.

b. Moving or changing position of conduit or pipe.

c. Minor alterations of handholes, manholes, or vaults.

d. Refastening, repairing, or moving racks ladders, or hangers in manholes or vaults.

e. Plugging and shelving ducts.

f. Repairs to sewers, drains, walls, and floors, rings and covers.

2. Work of the following character on underground conductors and devices:

a. Repairing circuit breakers, switches cutouts, network protectors, and associated relays and control wiring.

b. Repairing grounds.

c. Retraining and reconnecting cables in manholes including transfer of cables from one duct to another.

d. Repairing conductors and splices.

e. Repairing or moving junction boxes and potheads.

f. Refireproofing cables and repairing supports.

g. Repairing electrolysis preventive devices for cables.

h. Repairing cable bonding systems.

i. Sampling, testing, changing, purifying and replenishing insulating oil.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Repairing line testing equipment.

l. Repairing oil or gas equipment in high voltage cable systems and replacement of oil or gas.

3. Work of the following character on underground services:

a. Cleaning ducts.

b. Repairing any underground service plant.

594.1 Maintenance of lines (Nonmajor only).

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of distribution line facilities, the book cost of which is includible in account 364, Poles, Towers and Fixtures, account 365, Overhead Conductors and Devices, account 366, Underground Conduit, account 367, Underground Conductors and Devices, and account 369, Services. (See operating expense instruction 2.)

ITEMS

1. Work of the following character on poles, towers, and fixtures:

a. Installing additional clamps or removing clamps or strain insulators on guys in place.

b. Moving line or guy pole in relocation of pole or section of line.

c. Painting poles, towers, crossarms, or pole extensions.

d. Readjusting and changing position of guys or braces.

e. Realigning and straightening poles, crossarms, braces, pins, racks, brackets, and other pole fixtures.

f. Reconditioning reclaimed pole fixtures.

g. Relocating crossarms, racks, brackets, and other fixtures on pole.

h. Repairing pole supported platform.

i. Repairs by others to jointly owned poles.

j. Shaving, cutting rot, or treating poles or crossarms in use or salvage for reuse.

k. Stubbing poles already in service.

l. Supporting conductors, transformers, and other fixtures and transferring them to new poles during pole replacement.

m. Maintaining pole signs, stencils, tags, etc.

2. Work of the following character on overhead conductors and devices:

a. Overhauling and repairing line cutouts, line switches, line breakers, and capacitor installations.

b. Cleaning insulators and bushings.

c. Refusing line cutouts.

d. Repairing line oil circuit breakers and associated relays and control wiring.

e. Repairing grounds.

f. Resagging, retying, or rearranging position or spacing of conductors.

g. Standing by phones, going to calls, cutting faulting lines clear, or similar activities at times of emergencies.

h. Sampling, testing, changing, purifying, and replenishing insulating oil.

i. Transferring loads, switching, and reconnecting circuits and equipment for maintenance purposes.

j. Repairing line testing equipment.

k. Trimming trees and clearing brush.

l. Chemical treatment of right of way area when occurring subsequent to construction of line.

3. Work of the following character on underground conduit:

a. Cleaning ducts, manholes, and sewer connections.

b. Moving or changing position of conduit or pipe.

c. Minor alterations of handholes, manholes, or vaults.

d. Refastening, repairing or moving racks, ladders, or hangers in manholes or vaults.

e. Plugging and shelving ducts.

f. Repairs to sewers, drains, walls and floors, rings and covers.

4. Work of the following character on underground conductors and devices:

a. Repairing circuit breakers, switches, cutouts, network protectors, and associated relays and control wiring.

b. Repairing grounds.

c. Retraining and reconnecting cables in manhole including transfer of cables from one duct to another.

d. Repairing conductors and splices.

e. Repairing or moving junction boxes and potheads.

f. Refireproofing cables and repairing supports.

g. Repairing electrolysis preventive devices for cables.

h. Repairing cable bonding systems.

i. Sampling, testing, changing, purifying and replenishing insulating oil.

j. Transferring loads, switching and reconnecting circuits and equipment for maintenance purposes.

k. Repairing line testing equipment.

l. Repairing oil or gas equipment in high voltage cable system and replacement of oil or gas.

5. Work of the following character on services:

a. Moving position of service either on pole or on customers' premises.

b. Pulling slack in service wire.

c. Retying service wire.

d. Refastening or tightening service bracket.

e. Cleaning ducts.

595 Maintenance of line transformers.

This account shall include the cost of labor, materials used and expenses incurred in maintenance of distribution line transformers, the book cost of which is includible in account 368, Line Transformers. (See operating expense instruction 2.)

596 Maintenance of street lighting and signal systems.

This account shall include the cost of labor, materials used and expenses incurred in maintenance of plant, the book cost of which is includible in account 373, Street Lighting and Signal Systems. (See operating expense instruction 2.)

597 Maintenance of meters.

This account shall include the cost of labor, materials used and expenses incurred in the maintenance of meters and meter testing equipment, the book cost of which is includible in account 370, Meters, and account 395, Laboratory Equipment, respectively. (See operating expense instruction 2.)

598 Maintenance of miscellaneous distribution plant.

This account shall include the cost of labor, materials used and expenses incurred in maintenance of plant, the book cost of which is includible in accounts 371, Installations on Customers' Premises, and 372, Leased Property on Customers' Premises, and any other plant the maintenance of which is assignable to the distribution function and is not provided for elsewhere. (See operating expense instruction 2.)

ITEMS

a. Work of similar nature to that listed in other distribution maintenance accounts.

b. Maintenance of office furniture and equipment used by distribution system department.

901 Supervision (Major only).

This account shall include the cost of labor and expenses incurred in the general direction and supervision of customer accounting and collecting activities. Direct supervision of a specific activity shall be charged to account 902, Meter Reading Expenses, or account 903, Customer Records and Collection Expenses, as appropriate. (See operating expense instruction 1.)

902 Meter reading expenses.

This account shall include the cost of labor, materials used and expenses incurred in reading customer meters, and determining consumption when performed by employees engaged in reading meters.

ITEMS

Labor:

1. Addressing forms for obtaining meter readings by mail.

2. Changing and collecting meter charts used for billing purposes.

3. Inspecting time clocks, checking seals, etc., when performed by meter readers and the work represents a minor activity incidental to regular meter reading routine.

4. Reading meters, including demand meters, and obtaining load information for billing purposes. Exclude and charge to account 586, Meter Expenses, or to account 903, Customer Records and Collection Expenses, as applicable, the cost of obtaining meter readings, first and final, if incidental to the operation of removing or resetting, sealing, or locking, and disconnecting or reconnecting meters.

5. Computing consumption from meter reader's book or from reports by mail when done by employees engaged in reading meters.

6. Collecting from prepayment meters when incidental to meter reading.

7. Maintaining record of customers' keys.

8. Computing estimated or average consumption when performed by employees engaged in reading meters.

Materials and Expenses:

9. Badges, lamps, and uniforms.

10. Demand charts, meter books and binders and forms for recording readings, but not the cost of preparation.

11. Postage and supplies used in obtaining meter readings by mail.

12. Transportation, meals, and incidental expenses.

903 Customer records and collection expenses.

This account shall include the cost of labor, materials used and expenses incurred in work on customer applications, contracts, orders, credit investigations, billing and accounting, collections and complaints.

ITEMS

Labor:

1. Receiving, preparing, recording and handling routine orders for service, disconnections, transfers or meter tests initiated

y the customer, excluding the cost of car- ying out such orders, which is chargeable o the account appropriate for the work alled for by such orders.

2. Investigations of customers' credit and eeping of records pertaining thereto, in- uding records of uncollectible accounts ritten off.

3. Receiving, refunding or applying cus- omer deposits and maintaining customer eposit, line extension, and other miscella- eous records.

4. Checking consumption shown by meter eaders' reports where incidental to prepa- ation of billing data.

5. Preparing address plates and addressing ills and delinquent notices.

6. Preparing billing data.

7. Operating billing and bookkeeping ma- hines.

8. Verifying billing records with contracts r rate schedules.

9. Preparing bills for delivery, and mailing r delivering bills.

10. Collecting revenues, including collec- ion from prepayment meters unless inci- dental to meter-reading operations.

11. Balancing collections, preparing collec- ions for deposit, and preparing cash reports.

12. Posting collections and other credits or harges to customer accounts and extending unpaid balances.

13. Balancing customer accounts and controls.

14. Preparing, mailing, or delivering delinquent notices and preparing reports of delinquent accounts.

15. Final meter reading of delinquent accounts when done by collectors incidental to regular activities.

16. Disconnecting and reconnecting service because of nonpayment of bills.

17. Receiving, recording, and handling of inquiries, complaints, and requests for investigations from customers, including preparation of necessary orders, but excluding the cost of carrying out such orders, which is chargeable to the account appropriate for the work called for by such orders.

18. Statistical and tabulating work on customer accounts and revenues, but not including special analyses for sales department, rate department, or other general purposes, unless incidental to regular customer accounting routines.

19. Preparing and periodically rewriting meter reading sheets.

20. Determining consumption and computing estimated or average consumption when performed by employees other than those engaged in reading meters.

Materials and Expenses:

21. Address plates and supplies.

22. Cash overages and shortages.

23. Commissions or fees to others for collecting.

24. Payments to credit organizations for investigations and reports.

25. Postage.

26. Transportation expenses (Major only), including transportation of customer bills and meter books under centralized billing procedure.

27. Transportation, meals, and incidental expenses.

28. Bank charges, exchange, and other fees for cashing and depositing customers' checks.

29. Forms for recording orders for services removals, etc.

30. Rent of mechanical equipment.

31. Communication service (Nonmajor only).

32. Miscellaneous office supplies and expenses and stationery and printing (Nonmajor only).

NOTE: The cost of work on meter history and meter location records is chargeable to account 586, Meter Expenses.

904 Uncollectible accounts.

This account shall be charged with amounts sufficient to provide for losses from uncollectible utility revenues. Concurrent credits shall be made to account 144, Accumulated Provision for Uncollectible Accounts—Cr. Losses from uncollectible accounts shall be charged to account 144.

905 Miscellaneous customer accounts expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred not provided for in other accounts.

ITEMS

Labor:

1. General clerical and stenographic work.
2. Miscellaneous labor.

Materials and Expenses:

3. Communication service.
4. Miscellaneous office supplies and expenses and stationery and printing other than those specifically provided for in accounts 902 and 903.

906 Customer service and informational expenses (Nonmajor only).

This account shall include the cost of supervision, labor, and expenses incurred in customer service and informational activities, the purpose of which is to encourage safe and efficient use of the utility's service, to encourage conservation of the utility's service, and to assist present customers in answering specific inquiries as to the proper and economic use of the utility's service and the customer's equipment utilizing the service.

907 Supervision (Major only).

This account shall include the cost of labor and expenses incurred in the general direction and supervision of customer service activities, the object of which is to encourage safe, efficient and economical use of the utility's service. Direct supervision of a specific activity within customer service and informational expense classification shall be charged to the account wherein the costs of such activity are included. (See operating expense instruction 1.)

908 Customer assistance expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in providing instructions or assistance to customers, the object of which is to encourage safe, efficient and economical use of the utility's service.

ITEMS

Labor:

1. Direct supervision of department.
2. Processing customer inquiries relating to the proper use of electric equipment, the replacement of such equipment and information related to such equipment.
3. Advice directed to customers as to how they may achieve the most efficient and safest use of electric equipment.
4. Demonstrations, exhibits, lectures, and other programs designed to instruct customers in the safe, economical or efficient use of electric service, and/or oriented toward conservation of energy.
5. Engineering and technical advice to customers, the object of which is to promote safe, efficient and economical use of the utility's service.

Materials and Expenses:

6. Supplies and expenses pertaining to demonstrations, exhibits, lectures, and other programs.
7. Loss in value on equipment and appliances used for customer assistance programs.
8. Office supplies and expenses.
9. Transportation, meals, and incidental expenses.

NOTE.—Do not include in this account expenses that are provided for elsewhere, such as accounts 416, Costs and Expenses of Merchandising, Jobbing and Contract Work, 587, Customer Installations Expenses, and 912, Demonstrating and Selling Expenses.

909 Informational and instructional advertising expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect health and safety, to encourage environmental protection, to utilize their electric equipment safely and economically, or to conserve electric energy.

Labor:

1. Direct supervision of informational activities.
2. Preparing informational materials for newspapers, periodicals, billboards, etc., and preparing and conducting informational motion pictures, radio and television programs.
3. Preparing informational booklets, bulletins, etc., used in direct mailings.
4. Preparing informational window and other displays.
5. Employing agencies, selecting media and conducting negotiations in connection with the placement and subject matter of information programs.

Materials and Expenses:

6. Use of newspapers, periodicals, billboards, radio, etc., for informational purposes.
7. Postage on direct mailings to customers exclusive of postage related to billings.
8. Printing of informational booklets, dodgers, bulletins, etc.
9. Supplies and expenses in preparing informational materials by the utility.
10. Office supplies and expenses.

NOTE A: Exclude from this account and charge to account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Exclude also all expenses of a promotional, institutional, goodwill or political nature, which are includible in such accounts as 913, Advertising Expenses, 930.1, General Advertising Expenses, and 426.4, Expenditures for Certain Civic, Political and Related Activities.

NOTE B: Entries relating to informational advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies of the advertising message shall be readily available.

910 Miscellaneous customer service and informational expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in connection with customer service and informational activities which are not includible in other customer information expense accounts.

Labor:

1. General clerical and stenographic work not assigned to specific customer service and informational programs.
2. Miscellaneous labor.

Materials and Expenses:

3. Communication service.
4. Printing, postage and office supplies expenses.

911 Supervision (Major only).

This account shall include the cost of labor and expenses incurred in the general direction and supervision of sales activities, except merchandising. Direct supervision of a specific activity, such as demonstrating, selling, or advertising shall be charged to the account wherein the costs of such activity are included. (See operating expense instruction 1.)

912 Demonstrating and selling expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in promotional, demonstrating, and selling activities, except by merchandising, the object of which is to promote or retain the use of utility services by present and prospective customers.

ITEMS

Labor:

1. Demonstrating uses of utility services.
2. Conducting cooking schools, preparing recipes, and related home service activities.
3. Exhibitions, displays, lectures, and other programs designed to promote use of utility services.
4. Experimental and development work in connection with new and improved appliances and equipment, prior to general public acceptance.
5. Solicitation of new customers or of additional business from old customers, including commissions paid employees.
6. Engineering and technical advice to present or prospective customers in connection with promoting or retaining the use of utility services.
7. Special customer canvasses when their primary purpose is the retention of business or the promotion of new business.

Materials and Expenses:

8. Supplies and expenses pertaining to demonstration, and experimental and development activities.
9. Booth and temporary space rental.
10. Loss in value on equipment and appliances used for demonstration purposes.
11. Transportation, meals, and incidental expenses.

913 Advertising expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise by the utility.

ITEMS

Labor:

1. Direct supervision of department.
2. Preparing advertising material for newspapers, periodicals, billboards, etc., and preparing and conducting motion pictures, radio and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail advertising.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating advertising agencies and media and conducting negotiations in connection with the placement and subject matter of sales advertising.

Materials and expenses:

7. Advertising in newspapers, periodicals, billboards, radio, etc., for sales promotion purposes, but not including institutional or goodwill advertising includible in account 930.1, General Advertising Expenses.
8. Materials and services given as prizes or otherwise in connection with civic lighting contests, canning, or cooking contests, bazaars, etc., in order to publicize and promote the use of utility services.
9. Fees and expenses of advertising agencies and commercial artists.
10. Novelties for general distribution.
11. Postage on direct mail advertising.
12. Premiums distributed generally, such as recipe books, etc., when not offered as inducement to purchase appliances.
13. Printing booklets, dodgers, bulletins, etc.

14. Supplies and expenses in preparing advertising material.
15. Office supplies and expenses.

NOTE A: The cost of advertisements which set forth the value or advantages of utility service without reference to specific appliances or, if reference is made to appliances invites the reader to purchase appliances from his dealer or refer to appliances not carried for sale by the utility, shall be considered sales promotion advertising and charged to this account. However, advertisements which are limited to specific makes of appliances sold by the utility and prices, terms, etc., thereof, without referring to the value or advantages of utility service, shall be considered as merchandise advertising and the cost shall be charged to Costs and Expenses of Merchandising, Jobbing and Contract Work, Account 416.

NOTE B: Advertisements which substantially mention or refer to the value or advantages of utility service, together with specific reference to makes of appliances sold by the utility and the price, terms, etc., thereof and designed for the joint purpose of increasing the use of utility service and the sales of appliances, shall be considered as a combination advertisement and the costs shall be distributed between this account and Account 416 on the basis of space, time, or other proportional factors.

NOTE C: Exclude from this account and charge to Account 930.2, Miscellaneous General Expenses, the cost of publication of stockholder reports, dividend notices, bond redemption notices, financial statements, and other notices of a general corporate character. Exclude also all institutional or goodwill advertising. (See Account 930.1, General Advertising Expenses.)

916 Miscellaneous sales expenses (Major only).

This account shall include the cost of labor, materials used and expenses incurred in connection with sales activities, except merchandising, which are not includible in other sales expense accounts.

ITEMS

Labor:
1. General clerical and stenographic work not assigned to specific functions.
2. Special analysis of customer accounts and other statistical work for sales purposes not a part of the regular customer accounting and billing routine.
3. Miscellaneous labor.

Materials and Expenses:
4. Communication service.
5. Printing, postage, and office supplies and expenses applicable to sales activities, except those chargeable to account 913, Advertising Expenses.

917 Sales expenses (Nonmajor only).

This account shall include the cost of labor and expenses incurred for the purpose of promoting the sale of electricity, other than merchandising, jobbing or contract work activities.

ITEMS

1. Advertising.
2. Demonstrating uses of utility service.
3. Home service activities.
4. Solicitation of new business.

920 Administrative and general salaries.

A. This account shall include the compensation (salaries, bonuses, and other consideration for services, but not including directors' fees) of officers, executives, and other employees of the utility properly chargeable to utility operations and not chargeable directly to a particular operating function.

B. This account may be subdivided in accordance with a classification appropriate to the departmental or other functional organization of the utility.

921 Office supplies and expenses.

A. This account shall include office supplies and expenses incurred in connection with the general administration of the utility's operations which are assignable to specific administrative or general departments and are not specifically provided for in other accounts. This includes the expenses of the various administrative and general departments, the salaries and wages of which are includible in account 920.

B. This account may be subdivided in accordance with a classification appropriate to the departmental or other functional organization of the utility.

NOTE: Office expenses which are clearly applicable to any group of operating expenses other than the administrative and general group shall be included in the appropriate account in such group. Further, general expenses which apply to the utility as a whole rather than to a particular administrative function shall be included in account 930.2, Miscellaneous General Expenses.

ITEMS

1. Automobile service, including charges hrough clearing account.

2. Bank messenger and service charges.

3. Books, periodicals, bulletins and subcriptions to newspapers, newsletters, tax ervices, etc.

4. Building service expenses for customer ccounts, sales, and administrative and genral purposes.

5. Communication service expenses.

6. Cost of individual items of office equipment used by general departments which re of small value or short life.

7. Membership fees and dues in trade, echnical, and professional associations paid by a utility for employees. (Company memberships are includible in account 930.2.)

8. Office supplies and expenses.

9. Payment of court costs, witness fees and other expenses of legal department.

10. Postage, printing and stationery.

11. Meals, traveling and incidental expenses.

922 Administrative expenses transferred—Credit.

This account shall be credited with dministrative expenses recorded in ccounts 920 and 921 which are transerred to construction costs or to nontility accounts. (See electric plant intruction 4.)

923 Outside services employed.

A. This account shall include the fees and expenses of professional consultants and others for general services which are not applicable to a particular operating function or to other accounts. It shall include also the pay and expenses of persons engaged for a special or temporary administrative or general purpose in circumstances where the person so engaged is not considered as an employee of the utility.

B. This account shall be so maintained as to permit ready summarization according to the nature of service and the person furnishing the same.

ITEMS

1. Fees, pay and expenses of accountants and auditors, actuaries, appraisers, attorneys, engineering consultants, management consultants, negotiators, public relations counsel, tax consultants, etc.

2. Supervision fees and expenses paid under contracts for general management services.

NOTE: Do not include inspection and brokerage fees and commissions chargeable to other accounts or fees and expenses in connection with security issues which are includible in the expenses of issuing securities.

924 Property insurance.

A. This account shall include the cost of insurance or reserve accruals to protect the utility against losses and damages to owned or leased property used in its utility operations. It shall include also the cost of labor and related supplies and expenses incurred in property insurance activities.

B. Recoveries from insurance companies or others for property damages shall be credited to the account charged with the cost of the damage. If the damaged property has been retired, the credit shall be to the appropriate account for accumulated provision for depreciation.

C. Records shall be kept so as to show the amount of coverage for each class of insurance carried, the property covered, and the applicable premiums. Any dividends distributed by mutual insurance companies shall be credited to the accounts to which the insurance premiums were charged.

ITEMS

1. Premiums payable to insurance companies for fire, storm, burglary, boiler explosion, lightning, fidelity, riot, and similar insurance.

2. Amounts credited to account 228.1, Accumulated Provision for Property Insurance, for similar protection.

3. Special costs incurred in procuring insurance.

4. Insurance inspection service.

5. Insurance counsel, brokerage fees, and expenses.

NOTE A: The cost of insurance or reserve accruals capitalized shall be charged to construction either directly or by transfer to construction work orders from this account.

NOTE B: The cost of insurance or reserve accruals for the following classes of property shall be charged as indicated.

(1) Materials and supplies and stores equipment, to account 163, Stores Expense Undistributed (store expenses in the case of Nonmajor utilities), or appropriate materials account.

(2) For Major Utilities, transportation and other general equipment to appropriate clearing accounts that may be maintained. For Nonmajor utilities, transportation and

garage equipment, to account 933, Transportation Expenses.

(3) Electric plant leased to others, to account 413, Expenses of Electric Plant Leased to Others.

(4) Nonutility property, to the appropriate nonutility income account.

(5) Merchandise and jobbing property, to Account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work.

NOTE C (Major only): The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in property insurance work may be included in accounts 920 and 921, as appropriate.

925 Injuries and damages.

A. This account shall include the cost of insurance or reserve accruals to protect the utility against injuries and damages claims of employees or others, losses of such character not covered by insurance, and expenses incurred in settlement of injuries and damages claims. For Major utilities, it shall also include the cost of labor and related supplies and expenses incurred in injuries and damages activities.

B. Reimbursements from insurance companies or others for expenses charged hereto on account of injuries and damages and insurance dividends or refunds shall be credited to this account.

ITEMS

1. Premiums payable to insurance companies for protection against claims from injuries and damages by employees or others, such as public liability, property damages, casualty, employee liability, etc., and amounts credited to account 228.2, Accumulated Provision for Injuries and Damages, for similar protection.
2. Losses not covered by insurance or reserve accruals on account of injuries or deaths to employees or others and damages to the property of others.
3. Fees and expenses of claim investigators.
4. Payment of awards to claimants for court costs and attorneys' services.
5. Medical and hospital service and expenses for employees as the result of occupational injuries, or resulting from claims of others.
6. Compensation payments under workmen's compensation laws.
7. Compensation paid while incapacitated as the result of occupational injuries. (See Note A.)
8. Cost of safety, accident prevention and similar educational activities.

NOTE A: Payments to or in behalf of employees for accident or death benefits, hospital expenses, medical supplies or for salaries while incapacitated for service or on leave of absence beyond periods normally allowed, when not the result of occupational injuries, shall be charged to account 926, Employee Pensions and Benefits. (See also Note B of account 926.)

NOTE B: The cost of injuries and damages or reserve accruals capitalized shall be charged to construction directly or by transfer to construction work orders from this account.

NOTE C: Exclude herefrom the time and expenses of employees (except those engaged in injuries and damages activities) spent in attendance at safety and accident prevention educational meetings, if occurring during the regular work period.

NOTE D: The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in injuries and damages activities may be included in accounts 920 and 921, as appropriate.

926 Employee pensions and benefits.

A. This account shall include pensions paid to or on behalf of retired employees, or accruals to provide for pensions, or payments for the purchase of annuities for this purpose when the utility has definitely, by contract, committed itself to a pension plan under which the pension funds are irrevocably devoted to pension purposes, and payments for employee accident, sickness, hospital, and death benefits, or insurance therefor. Include, also, expenses incurred in medical, educational or recreational activities for the benefit of employees, and administrative expenses in connection with employee pensions and benefits.

B. The utility shall maintain a complete record of accruals or payments for pensions and be prepared to furnish full information to the Commission of the plan under which it has created or proposes to create a pension fund and a copy of the declaration of trust or resolution under which the pension plan is established.

C. There shall be credited to this account the portion of pensions and benefits expenses which is applicable to nonutility operations or which is charged to construction unless such amounts are distributed directly to the accounts involved and are not included herein in the first instance.

D. For Major utilities, records in support of this account shall be so kept that the total pensions expense, the total benefits expense, the administrative expenses included herein, and the amounts of pensions and benefits expenses transferred to construction or other accounts will be readily available.

ITEMS

1. Payment of pensions under a nonaccrual or nonfunded basis.

2. Accruals for or payments to pension funds or to insurance companies for pension purposes.

3. Group and life insurance premiums (credit dividends received).

4. Payments for medical and hospital services and expenses of employees when not the result of occupational injuries.

5. Payments for accident, sickness, hospital, and death benefits or insurance.

6. Payments to employees incapacitated for service or on leave of absence beyond periods normally allowed, when not the result of occupational injuries, or in excess of statutory awards.

7. Expenses in connection with educational and recreational activities for the benefit of employees.

NOTE A: The cost of labor and related supplies and expenses of administrative and general employees who are only incidentally engaged in employee pension and benefit activities may be included in accounts 920 and 921, as appropriate.

NOTE B: Salaries paid to employees during periods of nonoccupational sickness may be charged to the appropriate labor account rather than to employee benefits.

927 Franchise requirements.

A. This account shall include payments to municipal or other governmental authorities, and the cost of materials, supplies and services furnished such authorities without reimbursement in compliance with franchise, ordinance, or similar requirements; provided, however, that the utility may charge to this account at regular tariff rates, instead of cost, utility service furnished without charge under provisions of franchises.

B. When no direct outlay is involved, concurrent credit for such charges shall be made to account 929, Duplicate Charges—Credit.

C. The account shall be maintained so as to readily reflect the amounts of cash outlays, utility service supplied without charge, and other items furnished without charge.

NOTE A: Franchise taxes shall not be charged to this account but to account 408.1, Taxes Other Than Income Taxes, Utility Operating Income.

NOTE B: Any amount paid as initial consideration for a franchise running for more than one year shall be charged to account 302, Franchises and Consents.

928 Regulatory commission expenses.

A. This account shall include all expenses (except pay of regular employees only incidentally engaged in such work) properly includible in utility operating expenses, incurred by the utility in connection with formal cases before regulatory commissions, or other regulatory bodies, or cases in which such a body is a party, including payments made to a regulatory commission for fees assessed against the utility for pay and expenses of such commission, its officers, agents, and employees, and also including payments made to the United States for the administration of the Federal Power Act.

B. Amounts of regulatory commission expenses which by approval or direction of the Commission are to be spread over future periods shall be charged to account 186, Miscellaneous Deferred Debits, and amortized by charges to this account.

C. The utility shall be prepared to show the cost of each formal case.

ITEMS

1. Salaries, fees, retainers, and expenses of counsel, solicitors, attorneys, accountants, engineers, clerks, attendants, witnesses, and others engaged in the prosecution of, or defense against petitions or complaints presented to regulatory bodies, or in the valuation of property owned or used by the utility in connection with such cases.

2. Office supplies and expenses, payments to public service or other regulatory commissions, stationery and printing, traveling expenses, and other expenses incurred directly in connection with formal cases before regulatory commissions.

NOTE A: Exclude from this account and include in other appropriate operating expense accounts, expenses incurred in the improvement of service, additional inspection, or rendering reports, which are made necessary by the rules and regulations, or orders, of regulatory bodies.

NOTE B: Do not include in this account amounts includible in account 302, Franchises and Consents, account 181, Unamortized Debt Expense, or account 214, Capital Stock Expense.

929 Duplicate charges—Credit.

This account shall include concurrent credits for charges which may be made to operating expenses or to other accounts for the use of utility service from its own supply. Include, also, offsetting credits for any other charges made to operating expenses for which there is no direct money outlay.

930.1 General advertising expenses.

This account shall include the cost of labor, materials used, and expenses incurred in advertising and related activities, the cost of which by their content and purpose are not provided for elsewhere.

ITEMS

Labor:

1. Supervision.
2. Preparing advertising material for newspapers, periodicals, billboards, etc., and preparing or conducting motion pictures, radio and television programs.
3. Preparing booklets, bulletins, etc., used in direct mail advertising.
4. Preparing window and other displays.
5. Clerical and stenographic work.
6. Investigating and employing advertising agencies, selecting media and conducting negotiations in connection with the placement and subject matter of advertising.

Materials and Expenses:

7. Advertising in newspapers, periodicals, billboards, radio, etc.
8. Advertising matter such as posters, bulletins, booklets, and related items.
9. Fees and expenses of advertising agencies and commercial artists.
10. Postage and direct mail advertising.
11. Printing of booklets, dodgers, bulletins, etc.
12. Supplies and expenses in preparing advertising materials.
13. Office supplies and expenses.

NOTE A: Properly includible in this account is the cost of advertising activities on a local or national basis of a good will or institutional nature, which is primarily designed to improve the image of the utility or the industry, including advertisements which inform the public concerning matters affecting the company's operations, such as, the cost of providing service, the company's efforts to improve the quality of service, the company's efforts to improve and protect the environment, etc. Entries relating to advertising included in this account shall contain or refer to supporting documents which identify the specific advertising message. If references are used, copies of the advertising message shall be readily available.

NOTE B: Exclude from this account and include in account 426.4, Expenditures for Certain Civic, Political and Related Activities, expenses for advertising activities which are designed to solicit public support or the support of public officials in matters of a political nature.

930.2 Miscellaneous general expenses.

This account shall include the cost of labor and expenses incurred in connection with the general management of the utility not provided for elsewhere.

ITEMS

Labor:

1. Miscellaneous labor not elsewhere provided for.

Expenses:

2. Industry association dues for company memberships.
3. Contributions for conventions and meetings of the industry.
4. For Major utilities, research, development, and demonstration expenses not charged to other operation and maintenance expense accounts on a functional basis.
5. Communication service not chargeable to other accounts.
6. Trustee, registrar, and transfer agent fees and expenses.
7. Stockholders meeting expenses.
8. Dividend and other financial notices.
9. Printing and mailing dividend checks.
10. Directors' fees and expenses.
11. Publishing and distributing annual reports to stockholders.
12. Public notices of financial, operating and other data required by regulatory statutes, not including, however, notices required in connection with security issues or acquisitions of property. For Nonmajor utilities, transportation and garage equipment to account 933, Transportation Expenses.

931 Rents.

This account shall include rents properly includible in utility operating expenses for the property of others used, occupied, or operated in connection with the customer accounts, customer service and informational, sales, and general and administrative functions of the utility. (See operating expense instruction 3.)

933 Transportation expenses (Nonmajor only).

A. This account shall include the cost of labor, materials used and expenses incurred in the operation and maintenance of general transportation equipment of the utility.

B. This account may be used as a clearing account in which event the charges hereto shall be cleared by apportionment to the appropriate operating expense, electric plant, or other accounts on a basis which will distribute the expenses equitably. Credits to this account shall be made in such detail as to permit ready analysis.

ITEMS

1. Supervision.
2. Building service.
3. Care of grounds, including snow removal, cutting grass, etc.
4. Utility services.
5. Depreciation of transportation equipment.
6. Fuel and lubricants for vehicles (including sales and excise taxes thereon).
7. Insurance on garage equipment and transportation equipment, including public liability and property damage.
8. Maintenance of transportation and garage equipment.
9. Compensation of drivers, mechanics, clerks, and other garage employees.
10. Rent of garage buildings and grounds, vehicles or equipment.
11. Replacement of tires, tubes, batteries, etc.
12. Direct taxes, licenses, and permits.
13. Miscellaneous garage supplies, tools, and equipment.
14. Miscellaneous office supplies and expenses, printing, and stationery.
15. Transportation, meals, and incidental expenses.

NOTE A: The pay of employees driving trucks or other transportation equipment incidental to their regular occupation, shall not be included herein but charged directly to the appropriate expense or other account.

NOTE B: Transportation expenses applicable to construction shall not be included in operating expenses.

935 Maintenance of general plant.

A. This account shall include the cost assignable to customer accounts, sales and administrative and general functions of labor, materials used and expenses incurred in the maintenance of property, the book cost of which is includible in account 390, Structures and Improvements, account 391, Office Furniture and Equipment, account 397, Communication Equipment, and account 398 Miscellaneous Equipment. For Nonmajor utilities, include also other general equipment accounts (not including transportation equipment). (See operating expense instruction 2.)

B. Maintenance expenses on office furniture and equipment used elsewhere than in general, commercial and sales offices shall be charged to the following accounts:

Steam Power Generation, Account 514.
Nuclear Power Generation, Account 532 (Major only).
Hydraulic Power Generation, Account 545.
Other Power Generation, Account 554.
Transmission, Account 573.
Distribution, Account 598.
Merchandise and Jobbing, Account 416.
Garages, Shops, etc., Appropriate clearing account, if used.

NOTE: Maintenance of plant included in other general equipment accounts shall be included herein unless charged to clearing accounts or to the particular functional maintenance expense account indicated by the use of the equipment.

PART 103—STEAM ROAD INVESTMENTS IN ROAD AND EQUIPMENT; APPLICATION OF ICC CLASSIFICATION

GENERAL PROVISIONS

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GENERAL INSTRUCTIONS

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ACCOUNTS FOR INVESTMENT IN ROAD AND EQUIPMENT

ROAD

103.1 Engineering.
103.2 Land for transportation purposes.
103.3 Grading.
103.4 Underground power tubes.
103.5 Tunnels and subways.
103.6 Bridges, trestles, and culverts.
103.7 Elevated structures.
103.8 Ties.
103.9 Rails.
103.10 Other track material.
103.11 Ballast.
103.12 Track laying and surfacing.
103.13 Right-of-way fences.
103.14 Snow and sand fences and snowsheds.
103.15 Crossings and signs.
103.16 Station and office buildings.
103.17 Roadway buildings.
103.18 Water stations.
103.19 Fuel stations.
103.20 Shops and enginehouses.
103.21 Grain elevators.
103.22 Storage warehouses.
103.23 Wharves and docks.
103.24 Coal and ore wharves.
103.25 Gas producing plants.
103.26 Telegraph and telephone lines.
103.27 Signals and interlockers.
103.28 Power dams, canals, and pipe lines.
103.29 Power plant buildings.
103.30 Power substation buildings.
103.31 Power transmission systems.
103.32 Power distribution systems.
103.33 Power line poles and fixtures.
103.34 Underground conduits.
103.35 Miscellaneous structures.
103.36 Paving.
103.37 Roadway machines.
103.38 Roadway small tools.
103.39 Assessments for public improvements.
103.40 Revenues and operating expenses during construction.
103.41 Cost of road purchased.
103.42 Reconstruction of road purchased.
103.43 Other expenditures—road.
103.44 Shop machinery.
103.45 Power plant machinery.
103.46 Power substation apparatus.
103.47 Unapplied construction material and supplies.

EQUIPMENT

103.51 Steam locomotives.
103.52 Other locomotives.
103.53 Freight-train cars.
103.54 Passenger-train cars.
103.55 Motor equipment of cars.
103.56 Floating equipment.
103.57 Work equipment.
103.58 Miscellaneous equipment.

GENERAL EXPENDITURES

103.71 Organization expenses.
103.72 General officers and clerks.
103.73 Law.
103.74 Stationery and printing.
103.75 Taxes.
103.76 Interest during construction.
103.77 Other expenditures—general.

AUTHORITY: Secs. 3(13), 4(b), 41 Stat. 1063, 1065, as amended, secs. 301, 304(a), 308, 309, 49 Stat. 854, 855, 858; 16 U.S.C. 796(13), 797(b), 825, 825c(a), 825g, 825h.

SOURCE: Order 141, 12 FR 8549, Dec. 19, 1947.

GENERAL PROVISIONS

§ 103.00-1 Order of the Commission.

(a) At a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 19th day of May A.D. 1914.

(b) The subject of a Uniform System of Accounts to be prescribed for and kept by carriers being under consideration the following order was entered:

(1) *It is ordered*, That the Classification of Investment in Road and Equipment of Steam Roads and the text pertaining thereto, embodied in printed form to be hereafter known as Issue of 1914, a copy of which is now before this Commission be, and the same is hereby, approved that a copy thereof duly authenticated by the Secretary of the Commission be filed in its archives, and a second copy thereof, in like manner authenticated, in the office of the Division of Carriers' Accounts; and that each of said copies so authenticated and filed shall be deemed an original record thereof.

(2) *It is further ordered*, That the said Classification of Investment in Road and Equipment of Steam Roads with the text pertaining thereto be, and is hereby, prescribed for the use of carriers by rail (exclusive of electric

railways) subject to the provisions of the Act to Regulate Commerce as amended, in the keeping and recording of their accounts of investment in road and equipment; that each and every such carrier and each and every receiver or operating trustee of any such carrier be required to keep all said accounts in conformity therewith; and that a copy of said issue be sent to each and every such carrier and to each and every receiver or operating trustee of any such carrier.

(3) *It is further ordered,* That any such carrier or any receiver or operat-ng trustee of any such carrier may subdivide any primary account estab-ished in said issue, or may make as-signment of the amount included in any such primary account to operating divisions, to its individual lines, or to States: *Provided, however,* That such subprimary accounts set up or such as-signments made by any such carrier or by any receiver or operating trustee of any such carrier do not impair the in-egrity of the accounts hereby pre-cribed: *And provided also,* That a list of such subprimary accounts set up or uch assignments made be first filed in he office of the Division of Carriers' Accounts, subject to disapproval by he Commission.

(4) *It is further ordered,* That in order that the basis of comparison vith previous years be not destroyed, any such carrier or any receiver or operating trustee of any such carrier may, during the twelve months ending June 30, 1915, keep and maintain, in addition to the accounts of investment n road and equipment hereby pre-cribed, such portion or portions of its present accounts with respect to items f investment in road and equipment s may be deemed desirable by any uch carrier or by any receiver or oper-ting trustee thereof, for the purpose f such comparison; or, during the ame period, may maintain such groupings of the primary accounts hereby prescribed as may be desired or that purpose.

(5) *It is further ordered,* That, unless otherwise ordered, any such carrier or any receiver or operating trustee of any such carrier may keep any tempo-ary or experimental accounts for in-estment the purpose of which shall be to develop economies in construction: *Provided, however,* That such temporary or experimental accounts shall not impair the integrity of any general or primary account hereby prescribed.

(6) *It is further ordered,* That July 1, 1914, be, and is hereby, fixed as the date on which said issue of the Classification of Investment in Road and Equipment shall become effective.

§ 103.00-2 Introductory letter.

INTERSTATE COMMERCE COMMISSION,
DIVISION OF CARRIERS' ACCOUNTS,
Washington, May 19, 1914.

To Accounting Officers of Steam Railways:

This Classification of Investment in Road and Equipment supersedes the Classification of Expenditures for Road and Equipment, First Revised Issue, effective July 1, 1907, with the Supplement thereto, effective July 1, 1908, and also the Classification of Expenditures for Additions and Betterments, First Revised Issue, effective July 1, 1910. It also supersedes conflicting instructions contained in Accounting Bulletin No. 8.

The plan of merging the accounts of expenditures for additions and betterments with the accounts for investment in road and equipment provides that carriers' records shall be kept in such form that the expenditures for additions and betterments may be reported separately from those for original road, original equipment, and road extensions.

Distinct accounts have been provided for the investment in several classes of buildings which, under the former classification, were included in the account "Miscellaneous structures."

The general and special instructions contain a comprehensive statement of the principles underlying the classification, indicating generally the application of the accounting rules. The attention of accounting officers is called to the importance of requiring all employees who are assigned to accounting work in connection with investment in road and equipment to familiarize themselves thoroughly with these instructions.

In the preparation of the revision of the accounting rules contained in this and other classifications for steam roads, which are concurrently issued, the Commission has had the cooperation of the Association of American Railway Accounting Offices, and of its Standing Committee on Corporate, Fiscal, and General Accounts.

The classification, in tentative form, was presented for criticism and suggestions to the chief accounting officer of each railway and to the railway commissions of the several States. All suggestions received from such parties have been given careful consideration and many of them have been incorporated in the classification as here issued.

Fred W. Sweney,
Chief Examiner of Accounts.

§ 103.01-1 Determination of cost of licensed projects.

(a) In section 3 of the Federal Power Act, (49 Stat. 839; 16 U.S.C. 796 (13)), approved August 26, 1935, the words "net investment", as related to licensed projects, are defined as meaning "the actual legitimate original cost thereof as defined and interpreted in the classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission', plus similar costs of additions thereto and betterments thereof", minus the sum of certain specified items; and it is further provided in said section 3 that "The term 'cost' shall include, insofar as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others * * *."

(b) The said classification is included in this part in its entirety. It is not intended that it shall be used in the classification of debits and credits pertaining to licensed projects, but the principles set forth therein, except as modified by section 3 of the act, shall be controlling in the determination of the cost of original projects licensed under said act and of additions thereto and betterments thereof, and the elements of such cost.

(c) As used in paragraph (b) of this section, the term "original projects" for purposes of this system of accounts shall be understood to mean the lands, fixed improvements and equipment, and the franchises, rights, etc., provided and arranged for in the original plan for the construction of new plant. When the plans provide for the construction of the plant in more than one part or unit, the part or unit first completed or made ready for service shall constitute the original project, and subsequent acquisitions or construction of property shall be considered as additions.

GENERAL INSTRUCTIONS

§ 103.02-0 Records.

The carrier's records shall be kept with sufficient particularity to show fully the facts pertaining to all entries made in the accounts provided in this part for investment in road and equipment. Where the full information is not recorded in the general books, the entries therein shall be supported by other records in which the full details shall be shown. Such general book entries shall contain sufficient reference to the detail records to permit ready identification, and the detail records shall be filed in such manner as to be readily accessible for examination by representatives of the Interstate Commerce Commission. (App. II, effective Jan. 1, 1937, p. 9.)

Note: In §§ 103.02-1 to 103.77, inclusive the numbers to the right of the dash correspond with the respective instruction numbers in "classification of investment in road and equipment of steam roads prescribed by the Interstate Commerce Commission, issue of 1914," appendix II, uniform system of accounts prescribed for utilities and licenses, Federal Power Commission, effective Jan. 1, 1937, pp. 9-14. Cross references to accounts (other than balance-sheet accounts which are not published in this part) are made by citing the account number, e.g., Account 37, instead of the corresponding section number (§ 103.37).

§ 103.02-1 Accounts for investment in road and equipment.

The accounts prescribed in this classification are designed to show the investment of the carrier in property devoted to transportation service. The carrier's investment in physical property other than transportation property is provided for in Balance-sheet account 705, "Miscellaneous physical property." The carrier means the accounting carrier, except when otherwise specifically indicated. The carrier's records shall be kept in such form that expenditures for additions and betterments may be reported separately from those for original road, original equipment, and road extensions, and shall show separately, the expenditures under each authorized addition and betterment project. (See Balance-sheet account 701, "Investment in road and equipment," and 702. "Improvements on leased railway property.")

§ 103.02-2 Items to be charged.

(a) To these accounts shall be charged the cost of original road, original equipment, road extensions, additions and betterments; also the estimated values at time of acquisition of right of way and other road and equipment property donated to the carrier, except that unless authorized by the Commission no charges shall be made to these accounts after July 1, 1914, for donations received previously to that date. Applications to the Commission for including such items in the road and equipment accounts shall contain full information concerning the source and character of the donations.

(b) If the total cost of additions and betterments to any class of equipment, or any class of fixed improvements (except tracks), under a general plan, considered as a whole, is less than $200, the option may be exercised of charging the amount expended to the appropriate account in Operating Expenses. This section is not to be construed as authorizing the parceling of expenditures in order to bring them within this limit.

(c) Construction includes all processes connected with the acquisition and construction of original road and equipment, road extensions, additions, and betterments.

(d) Original road means the land and fixed improvements provided and arranged for in the original plan for the construction of a new road. When the acquisition of any such fixed improvements under the original plan is deferred, such improvements, when acquired, shall be considered as additions. Original road shall not be constructed to include fixed improvements which, under the original plans for the road, it is proposed to substitute at some time subsequent to the beginning of commercial operations for the improvements originally installed and used for transportation operations, such as steel bridges substituted for trestles.

(e) Original equipment means equipment provided and arranged for under the original plan for the construction of a new road. When the acquisition of such equipment under the original plan is deferred, such equipment, when acquired, shall be considered as additions.

(f) Road extension means the land and fixed improvements provided and arranged for in the original plan for the construction of extensions of existing main lines, additional branch lines, and extensions of existing branch lines. When the acquisition of any such fixed improvements under the original plan is deferred, such improvements, when acquired, shall be treated as additions. Road extensions shall not be construed to include fixed improvements which under the original plans for the extensions it is proposed to substitute, at some time subsequent to the beginning of commercial operations, for the improvements originally installed and used for transportation in connection with commercial operations, such as steel bridges substituted for trestles.

(g) Equipment means the rolling stock, boats, highway vehicles, horses, and harness devoted to transportation service, the cost of which is includible in the equipment accounts.

(h) Fixed improvements means structures which are fixed as to location, such as tunnels, bridges, buildings, earthworks, etc.

(i) Additions are additional facilities, such as additional equipment, tracks (including timber and mine tracks), buildings, bridges, and other structures; additions to such facilities, such as extensions to tracks, buildings, and other structures; additional ties laid in existing tracks; and additional devices applied to facilities, such as air brakes applied to cars not previously thus equipped. When property, such as a section of road, track, unit of equipment, shop or power plant machine, building, or other structure, is retired from service and replaced with property of like purpose, the newly acquired property shall, for the purpose of this classification, be considered as an addition, and the cost thereof accounted for accordingly. (See § 103.02-7.) If, however, the property retired and replaced is of minor importance, such as a small roadway building or other structure, and is replaced in kind without betterment, the cost of the replacement shall be charged to Operating Expenses, and no adjustment made in the road and equipment accounts.

(j) Betterments are improvements of existing facilities through the substitution of superior parts for inferior parts retired, such as the substitution of steeltired wheels for cast wheels under equipment, the application of heavier rail in tracks, and the strengthening of bridges by the substitution of heavier members. The cost chargeable to the accounts of this classification is the excess cost of new parts over the cost at current prices of new parts of the kind retired. (See § 103.02-12.)

(k) Costs shall be actual money costs to the carrier. Where a portion of the founds expended by the carrier has been obtained through donations by States, municipalities, individuals, or others, no deductions on account of such donations shall be made in stating the costs. Contributions for joint expenditures should not be considered as donations. The carrier's proportion only of the cost of joint projects, such as construction of jointly owned tracks and elimination of highway crossings at joint expense, shall be included in these accounts.

§ 103.02-3 Basis of charges.

The charges to the accounts of this classification shall be based upon the cost of the property acquired. When the consideration given for the purchase or the improvement of property the cost of which is chargeable to the accounts of this classification is other than money, the money value of the consideration at the time of the transaction shall be charged to these accounts, and the actual consideration shall be described in the record in sufficient detail to identify it. The carrier shall be prepared to furnish the Commission, upon demand, the particulars of its determination of the actual cash value of the consideration, if other than money.

§ 103.02-4 Cost of construction.

It is intended that the accounts for fixed improvements and equipment shall include the cost of construction of such property. The cost of construction shall include the cost of labor, materials, and supplies, work-train service, special machine service, transportation, contract work, protection from casualties, injuries and damages, privileges, and other analogous elements in connection with such work. The several items of cost here referred to are defined as follows:

(a) Cost of labor includes the amount paid for labor expended by the carrier's own employees, including the cost of labor expended for preliminary work, such as sinking test holes or making soundings for tunnels, grading, buildings, and other structures; and cost of labor expended in laying and taking up tracks for temporary use in construction, except the cost of labor expended on tracks provided for the protection of traffic during the progress of addition and betterment work. Office expenses and traveling and other personal expenses of employees, when borne by the carrier, shall be considered a part of the cost of the labor, as shall also the cost of fidelity bonds and employers' liability insurance premiums. When officers or employees are specially assigned to construction work, their pay and their traveling and incidental expenses while thus engaged shall be included in the cost of the work. No charge shall be made against road and equipment accounts for the pay of officers who merely render services incidentally in connection with extensions, additions, or betterments, although traveling and incidental expenses incurred by such officers solely on account of such work shall be included in the account to which the cost of the work is chargeable.

(b) Cost of materials and supplies includes the purchase price of materials and supplies, including small tools, at the point of free delivery, plus the costs of inspection and loading assumed by the carrier; also a suitable proportion of store expenses. (See special instructions for operating expense accounts, sections 16 and 17.) In calculating the cost of materials used, proper allowance shall be made for the value of unused portions and of cuttings, turnings, borings, etc.; for the value of the material recovered from temporary tracks, scaffolding, cofferdams, and other temporary structures used in construction; and for the value of small tools recovered and used for other purposes.

(c) Cost of work-train service includes amounts paid to others for rent and maintenance of the equipment used; cost of labor of enginemen, trainmen, and enginehouse men, including the wages of engine crews and train crews held in readiness for such service; and the cost of fuel and other supplies consumed in connection with the operation of work trains. It shall also include the cost of maintaining the carrier's own equipment while used in construction service and a fair rent for such equipment while so used. Amounts charged for rent of such equipment used in construction shall concurrently be credited to the appropriate income account for hire of equipment. No "rent" or return upon the investment in such equipment shall be charged for the use of equipment acquired with the proceeds of securities sold, when the interest upon such securities is charged to the accounts of this classification.

(d) Cost of special machine service includes the cost of labor expended and of materials and supplies consumed in maintaining and operating steam shovels, scrapers, rail unloaders, ballast unloaders, pile drivers, dredges, ditchers, weed burners, and other labor-saving machines; also rents paid for use of such machines. (See Note A under Account 37, "Roadway machines," and text of general account II, Equipment, seventh paragraph.)

(e) Cost of transportation includes the amounts paid to other companies or individuals for the transportation of men, materials and supplies, special machine outfits, appliances, and tools in connection with construction. Freight charges paid foreign lines for the transportation of construction material to the carrier's line shall be included, so far as practicable, as a part of the cost of the material, when such charges are borne by the carrier. A fair allowance representing the expense to the carrier of such transportation in transportation service trains over the carrier's own line also shall be included. When the cost of such transportation is not assignable to specific work, it shall be included in Account 43, "Other expenditures—Road." Amounts thus charged for transportation in transportation service trains over the carrier's line shall be credited to operating expense general account VIII, Transportation for Investment—Cr.

(f) Cost of contract work includes amounts paid for work performed under contract by other companies, firms, or individuals, and costs incident to the award of the contract.

(g) Cost of protection from casualties includes expenditures for protection against fire, such as payments for discovery or extinguishment of fires, cost of detecting and prosecuting incendiaries, witness fees in relation thereto, amounts paid to municipal corporations and others for fire protection, and other analogous items of expenditure in connection with construction work.

(h) Cost of injuries and damages includes expenditures on account of injuries to persons or damage to property when incident to construction projects, and shall be included in the cost of the work in connection with which the injury or damage occurs. It also includes that portion of premiums paid for insuring property applicable to the period prior to the completion or coming into service of the property insured. Insurance recovered on account of compensation paid for injuries to persons incident to construction shall be credited to the accounts to which such compensation is charged, and insurance recovered on account of damages to property incident to construction shall be credited to the accounts chargeable with the expenditures necessary for restoring the damaged property. The cost of injuries and damages incident to the removal of old structures, or parts thereof, shall be charged to Operating Expenses or Profit and Loss, as may be appropriate, except that such costs in connection with the removal of old structures which are incumbrances on newly acquired lands shall be included in Account 2, "Land for tranportation purposes," or 3, "Grading," as may be appropriate. (See §§ 103.02-7, 103.02-8.)

(i) Cost of privileges includes compensation for temporary privileges, such as the use of public property or streets, in connection with the construction of the property of the carrier.

§ 103.02-5 Excavated material.

The cost of disposing of material excavated in connection with construction shall be considered as a part of the cost of the work, except that when such material is used for filling, the cost of removal and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used.

§ 103.02-6 Items to be credited.

(a) To these accounts shall be credited the ledger value of property retired.

(b) Ledger value of property is the value at which the property is carried in the property investment account in the general ledger of the carrier. In case the value of any item of property is not shown separately in the ledger the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included.

(c) Property retired means property which is sold, abandoned, demolished, or otherwise withdrawn from transportation service.

(d) Salvage from retired property is the value of material recovered from property retired. When such material is retained and again used by the carrier, the value shall be computed upon the basis of fair prices for the material in its condition as recovered. When such material is sold, the net proceeds of the sale shall be considered as the value of the material.

§ 103.02-7 Property retired and replaced.

(a) When a unit of property other than land or equipment—such as a section of road, side or yard track, shop or power plant machine, building, or other structure—is retired from service and replaced with property of like purpose, the ledger value of the retired property shall be credited to the appropriate accounts of this classification at the time that the property is retired from service. The amount of this credit shall be charged concurrently as follows:

(b) An amount equal to the credit balance in the accrued depreciation balance-sheet account with respect to the property thus retired shall be charged to that account and the remainder (less salvage and insurance recovered, if any), together with the cost of demolishing the property, if demolished by or for the carrier, shall be charged to the accounts in Operating Expenses appropriate for the cost of repairs of the property before retirement. The accounting for the salvage shall be in accordance with the disposition made of the material recovered.

(c) If, however, the property retired and replaced with property of like purpose is of minor importance, such as a small roadway building or other small structure, and is replaced in kind without betterment, the cost of the replacement shall be charged to operating expense accounts, and no adjustment made in the road and equipment accounts.

(d) If so authorized by the Interstate Commerce Commission, the carrier may charge to Profit and Loss any extraordinarily large item representing the cost of property retired and replaced, instead of charging such item to Operating Expenses. The carrier shall file with the Commission a statement of the cost and a description of the property retired and the reasons which, in its judgment, indicate the propriety of charging the cost of such property to Profit and Loss.

(e) The provisions of this section are applicable in accounting (at the time of retirement) for the cost of property abandoned, even though the new property has been actually installed previously to the date of the demolishment of the abandoned property.

(f) When the renewals to be made to an important building or other structure will constitute the major portion of its value when renewed, the property, when taken out of service, shall be considered as retired and accounted for as provided above, and for the purposes of this classification the renewed property shall be considered as an addition, and the appraised cost thereof shall be included in the accounts of this classification, consideration being given to the secondhand portions remaining therein. In no case shall the charge for the renewed property exceed the cost (at current market prices of labor and material) of new property of equal capacity and equal expectation of life in service, less a suitable allowance on account of the secondhand parts remaining therein.

§ 103.02-8 Property retired and not replaced.

(a) When a unit of property other than land or equipment—such as a section of road, side or yard track, shop or power plant machine, building, or other structure—is retired from service and not replaced, the ledger value shall be credited to the appropriate property accounts at the time that the property is retired from service. The amount of this credit shall be concurrently charged as follows:

(b) An amount equal to the credit balance in the accrued depreciation balance-sheet account with respect to the property thus retired shall be charged to that account, and the remainder (less salvage and insurance recovered, if any), together with the cost of demolishing the property if demolished by or for the account of the carrier, shall be charged to the appropriate profit and loss account. The accounting for the salvage shall be in accordance with the disposition made of the material recovered.

§ 103.02-9 Equipment retired.

The instructions for accounting for equipment retired are contained in the text of the general account II, Equipment.

§ 103.02-10 Land retired.

When any land, the cost of which is included in the accounts of this classification, is retired, the ledger value shall be credited to Account 2, "Land for transportation purposes." If the land is retained by the carrier, its estimated value shall be charged to Balance-sheet Account 705, "Miscellaneous physical property," the necessary adjustment of the difference between the ledger value and the estimated value on account of the loss in the property due to its retirement from transportation service shall be made through Profit and Loss. If sold, the difference between the ledger value credited to Account 2 and the amount received for the land shall be adjusted in Profit and Loss.

§ 103.02-11 Adjustments for converted property.

When property, such as a unit of equipment, a building, or other facility of one class, is converted into property of another class, so that the amount of investment in such property must be transferred from one account of this classification to another, the ledger value shall be credited to the appropriate road and equipment account. Proper account shall be taken of any salvage recovered in the process of conversion. The amount of the balance in the accured depreciation balance-sheet account, with respect to the property thus converted, shall be charged to that account. The appraised cost of the property converted (consideration being given to the secondhand portions remaining therein) shall be included in the appropriate account of this classification. The charge for the converted property in no case shall exceed the cost (at current market prices of labor and material) of new property of equal capacity and equal expectation of life in service, less a suitable allowance on account of the secondhand portions remaining therein. The ledger value of the property before conversion, plus the cost of conversion, less the sum of the estimated value of the property as converted, the amounts charged to accrued depreciation accounts and the salvage recovered, shall be charged to the operating expense accounts appropriate for the costs of repairs of the fixed improvements or for the retirement of equipment before conversion.

§ 103.02-12 Expenses in connection with additions and betterments.

The cost of removing old material from equipment and from buildings, bridges, wharves, tracks, and other fixed improvements, shall be charged to the appropriate operating expense accounts. Such charges shall include the cost of removing old foundations and filling old excavations, and restoring condition of grounds after addition and betterment work; rearranging or relocating existing tracks; relocating telegraph and telephone poles or lines, fences, track and other signals, buildings, bridges, trestles, culverts, and other structures, and farm and highway crossings, including crossing gates and alarms, when the provisions of § 103.02-8 are not applicable; and maintaining or protecting traffic during the progress of addition and betterment work, including the cost of constructing, maintaining, and removing temporary tracks required for maintaining traffic during the progress of the work.

§ 103.02-13 Interpretation of item lists.

Lists of "items," "details," etc., have been given as a part of this classification for the purpose of clearly indicating the application of the accounting rules in specific cases. The lists in every case are to be considered as merely representative, and not as excluding from any account analogous items which happen to be omitted from the list appended. On the other hand, the appearance of an item in a list warrants the inclusion of the item in the account concerned only when the text of the account also indicates inclusion, inasmuch as the same item frequently appears in more than one list. The item of boilers, for example, will be found under Accounts 18, 27, 37, 44, and 45, and the proper charge in any one instance must be determined by the text of the account.

§ 103.02-14 Submission of questions.

To the end that uniformity of accounting may be maintained from year to year, carriers shall submit all questions of doubtful interpretation of the accounting rules to the Commission for consideration and decision.

ACCOUNTS FOR INVESTMENT IN ROAD AND EQUIPMENT

ROAD

NOTE: The several primary accounts included in this general account are designed to show the cost of land, fixed improvements, and roadway machines and tools owned by the carrier and devoted to transportation service.

§ 103.1 Engineering.

This account shall include the pay and expenses of engineers, assistants, and clerks engaged in the survey and construction of new lines and extensions, or in making additions to and betterments of the carrier's road, including wharves and docks.

LIST OF OFFICERS AND EMPLOYEES

(See general instructions, § 103.02-13)

Chief engineer.
Assistant engineers.
Bridge engineer.
Signal engineer.
Architects.
Chief clerk.
Draftsmen.
Clerks.
Transitmen.
Levelmen.
Rodmen.
Chainmen.
Axmen.
Messengers.
Cooks on business cars.
Porters on business cars.

ITEMS OF EXPENSE AND SUPPLIES

(See general instructions, § 103.02-13)

Atlases and maps.
Axes.
Barometers.
Books for office use.
Boxes for materials and instruments.
Business car service.
Cameras.
Camp equipage.
Chains for surveyors.
Compasses.
Curves.
Drawing boards.
Drawing instruments.
Field glasses.
Field notebooks.
Furniture repairs and renewals.
Hatchets.
Heating and lighting.
Levels.
Magnets.
Magnifiers.
Marking chalk.
Official train service.
Oilstones.
Paper, blue-print.
Parallel rules.
Periodicals and newspapers.
Photographic supplies.
Plane tables.
Planimeters.

Plummets.
Printing and stationery.
Protractors.
Provisions for business cars.
Ranging poles.
Reading glasses.
Rent of offices.
Repairs of rented offices.
Rods for surveyors.
Scales.
Section liners.
Sextants.
Slide rules.
Stakes.
Straightedges.
Tally registers.
Tape lines.
Tee squares.
Telegraph service.
Telephone service.
Telescopes.
Thermometers.
Thumb tacks.
Tracing linen.
Transits.
Traveling expenses.
Traverse tables.
Triangles.
Tripods.
Verniers.
Water and ice.

NOTE A: When employees designated above are engaged in the maintenance of the road, their pay and expenses while thus employed shall be charged to Operating Expenses.

NOTE B: Expenditures for tentative or preliminary surveys shall be carried in a suspense account until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account, and, if abandoned to Operating Expenses, Income, or Profit and Loss, as may be appropriate.

NOTE C: The cost of designing, making plans and specifications, and supervising the construction of equipment shall be included in the cost of the equipment.

NOTE D: The cost of stationery and printing supplies used for accounting purposes in connection with engineering work shall be included in Account 74, "Stationery and Printing," when not directly assignable to specific road or equipment accounts.

NOTE E: Fees and expenses of architects specially employed for designing or supervising the construction of buildings shall be included in the accounts appropriate for the cost of the buildings constructed.

§ 103.2 Land for transportation purposes.

(a) This account shall include the cost of land of necessary width acquired for roadway; the cost of land for station, office, shop, and other grounds; for ingress to or egress from such grounds; for borrow pits, waste banks, snow fences, sand fences, and other railway appurtenances; and for storage of material adjoining the right of way; the cost of land for wharves and docks and the cost of riparian or water rights necessary therefor; the cost of removing from the right of way and locating elsewhere the property of others, and the cost of the necessary land for relocation of the property, when such costs are assumed by the accounting carrier.

(b) The carrier's records shall be kept in such manner as to show separately the cost of land purchased by it and the estimated values at time of acquisition of lands donated.

(c) Proceeds from the sale of timber or of improvements purchased with right of way, less any cost of removal, shall be credited to this account.

ITEMS OF EXPENSE

(See general instructions, § 103.02-13)

Abstracts.
Appraisals.
Arbitrators in condemnation cases.
Commissions paid to others.
Condemnation expenses, including court costs and special counsel fees.
Damages to property of others.
Deferred payments for right-of-way.
Ditches for waterways when part of consideration.
Judgements and decreed costs to clear or defend titles.
Notarial fees.
Plats.
Premiums on condemnation bonds.
Recording deeds.
Payments for relinquishment of cattle passes and other rights.
Removal and relocation of buildings and other structures not purchased.
Rent of land when part of consideration for purchase.
Right-of-way agents' compensation (engaged solely in acquiring right of way).
Taxes accrued and assumed at time of purchase.

NOTE: The cost of land acquired in excess of that necessary for transportation operations shall be included in Balance-sheet Account 705, "Miscellaneous physical property." When the purchase of land acquired for transportation operations involves the purchase of land not used for such purposes the charges to this account shall be based upon the estimated cost of only that portion which is used for such purposes, and the cost of the remaining land shall be included in Account 705, "Miscellaneous physical property."

§ 103.3 Grading.

(a) This account shall include the cost of clearing and grading the roadway, and of constructing protection of a permanent character for the roadway, tracks, embankments, and cuts.

(b) When a part of a bridge or trestle or the entire structure, is converted by filling into an earth embankment, and the bridge is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such temporary trestle shall be included in the cost of the filling, and charged to this account. (See Note A, under Account 6, "Bridges, trestles, and culverts.")

(c) When a tunnel is converted into an open cut, the cost of clearing, grubbing, and excavating shall be included in this account.

DETAILS OF ROADBED AND ITEMS OF EXPENSE

(See general instructions, § 103.02-13)

Advertising for contractors' bids.
Berm ditches.
Blasting.
Breakwaters.
Bulkheading.
Clearing land.
Cribbing.
Ditches (not required by right-of-way agreement).
Dressing slopes.
Excavation for conversion of tunnels into open cuts.
Filling bridges, trestles, and culverts.
Grading outfits.
Grubbing land.
Material taken from borrow pits.
Operation of steam shovels.
Payments for privilege of wasting material on the property of others.
Payments for waste banks off the right of way.
Reconstruction of highways.
Retaining walls.
Revetments.
Riprap.
Spoil banks.
Temporary trestling for fills.
Tools for grading.
Wing dams.

§ 103.4 Underground power tubes.

This account shall include the cost of power tubes or conduits for underground contacts of electric railways or for underground cables of cable traction railways.

DETAILS OF UNDERGROUND CONTACT SYSTEM

(See general instructions, § 103.02-13)

Concrete work.
Drainpipes.
Manhole covers.
Manhole frames.
Plow pits.
Pulleys.
Sheaves.
Slot rails.
Yokes.

NOTE: The cost of track rails, other track material, and electric contact rails and insulators shall be charged to the accounts appropriate for such property.

§ 103.5 Tunnels and subways.

This account shall include the cost of tunnels and subways for the passage of trains, including apparatus for ventilating and lighting, and safety devices therein, other than signals.

NOTE A: The cost of tracks, including guard rails, in tunnels shall not be charged to this account.

NOTE B: Station subways not highway crossings are includible in Account No. 16, "Station and office buildings."

NOTE C: If a tunnel be converted into an open cut, the accounting shall be in accordance with general instructions, § 103.02-11.

§ 103.6 Bridges, trestles, and culverts.

This account shall include the cost of the substructure and superstructure of bridges, trestles, and culverts, which carry the tracks of the carrier over watercourses, ravines, public and private highways, and other railways.

DETAILS OF BRIDGE STRUCTURES

(See general instructions, § 103.02-13)

Abutments.
Bridge signs.
Cofferdams.
Concrete and masonry ends for culverts.
Cribs.
Decking, including gravel for fire protection.
Dike protection.
Drainage systems.
Draw protection.
Drawbridge engines and machinery.
False work.
Guard timbers.
Ice breakers.
Painting (except repainting).
Pier protection.

Piers and foundations.
Pipe culverts.
Retaining walls.
Riprap around abutments.
Riprap at culvert ends.
Supports.
Water channels.
Waterproofing.
Wing dams.
Wing walls.

NOTE A: When a part or the entire structure of a bridge or trestle is converted, by filling, into an earth embankment the ledger value of the structure, or of the portion thereof filled, shall be credited to this account. In case the bridge or trestle is used in lieu of a temporary trestle for the purpose of filling, the estimated cost of such temporary trestle shall be charged to Account 3, "Grading." The ledger value of the structure, or portion thereof, filled, less the value of the salvage and the estimated cost of trestle charge to Account 3, shall be charged to Operating Expenses.

NOTE B: The cost of bridges to carry the carrier's tracks over undergrade crossings, including the necessary piers and abutments for sustaining them, shall be included in this account, but the cost of undergrade roadways, paving on right of way, drainage systems and retaining walls outside of the bridge abutments shall be included in Account 15, "Crossings and signs."

§ 103.7 Elevated structures.

(a) This account shall include the cost of elevated structures and foundations of elevated railway systems.

(b) This account is applicable to structures other than earthwork, which are for the purpose of elevating tracks above the grade of streets, and which are not properly classable as bridges or trestles.

NOTE: The cost of stations and other structures built on elevated structures shall be accounted for according to the class of the structure thus superimposed, and not in this account.

§ 103.8 Ties.

(a) This account shall include the cost of cross, switch, bridge, and other track ties used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), and the cost of additional ties subsequently laid in such tracks; also the excess cost of metal ties used in repairs of track over the cost to replace in kind wooden ties removed.

(b) The cost of handling ties in general supply and storage yards shall be included as store expenses apportioned to this account when the ties are used for construction purposes.

NOTE A: The cost of labor for unloading, distributing, and placing the ties in tracks, and the cost of train service in connection with the distribution of ties laid shall be charged to Account 12, "Track laying and surfacing."

NOTE B: The cost of ties used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of ties used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

§ 103.9 Rails.

(a) This account shall include the cost of rails used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), and the excess cost of heavier rails or rails of improved types or quality used for repairs of tracks over the cost to replace in kind the rails removed.

(b) The cost of handling rails in general supply and storage yards shall be included as store expenses apportioned to this account when the rails are used for construction purposes.

(c) To this account shall be credited the difference between the cost (at current prices at time of removal) of heavy rails removed and the cost of lighter rails applied in the repairs of tracks.

NOTE A: The cost of labor for unloading, distributing, and placing the rails in tracks, and of train service in connection with the distribution of the rails shall be charged to Account 12, "Track laying and surfacing."

NOTE B: When secondhand rails are first applied to any tracks and no more than the actual cost of such rails is carried in the road accounts, the excess cost of new or heavier rails used for relaying the tracks over the cost (at prices current at the time of replacement) of rails of a weight and condition equal to the weight and condition of the released rails when applied, shall be charged to this account.

NOTE C: The cost of rails used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of rails used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

§ 103.10 Other track material.

(a) This account shall include the cost of material used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards, etc.), except ballast and material chargeable to foregoing accounts; also the excess cost of heavier or improved "other track material" used in repairs of tracks over the cost of replacing in kind such material removed.

(b) The cost of handling "other track material" in general supply and storage yards shall be included as store expenses apportioned to this account when such material is used in the construction of new tracks.

ITEMS OF OTHER TRACK MATERIAL

(See general instructions, § 103.02-13)

Angle bars.
Anticreepers.
Bumping posts.
Compromise joints.
Connecting rods.
Crossings for steam and electric railways, including foundations or bases.
Derails.
Frog blocking.
Frogs.
Guard-rail blocking
Guard-rail clamps.
Guard-rail fasteners.
Guard rails, switch and other.
Main rods.
Nut locks.
Nuts.
Offset bars.
Rail braces.
Rail chairs.
Rail clips.
Rail joints.
Rail rests.
Rail shims.
Rail splices.
Splice bars.
Step chairs.
Switch chairs.
Switch crossings.
Switch lamps.
Switch locks and keys.
Switch points.
Switch stands.
Switch targets.
Switches.
Tie plates.
Tie plugs.
Tie-rods.
Track bolts.
Track insulators.
Track spikes.

NOTE A: The cost of labor and train service for distributing, unloading, and applying "other track material" shall be charged to Account 12, "Track laying and surfacing."

NOTE B: No entry is required in this account with respect to improved "other track material" unless installed under a definite plan of changing standards, such as increasing the weight of rail.

NOTE C: The cost of "other track material" used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of such track material used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

§ 103.11 Ballast.

This account shall include the cost of gravel, stone, slag, cinders, sand, and like material used in ballasting tracks (including tracks in shops, fuel stations supply yards, etc.) not previously ballasted, including cost of work-train service and of unloading; cost of ballast applied in excess of ballast required to restore to its maximum height and width the ballast previously put on the roadbed; and the excess cost of improved ballast used in renewals over the cost to replace in kind to the original height and width the ballast removed. (Special instructions, § 103.02-11, for operating expense accounts, apply to the accounting for pits from which ballast material is obtained either for construction work or for maintenance, or for both.)

NOTE A: The cost of ballast used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts

NOTE B: Earth placed to form a crown in the middle of the track is not to be considered as ballast.

NOTE C: The cost of ballast material placed on the decking of bridges solely for fire-protection purposes shall be included in Account 6, "Bridges, trestles, and culverts."

NOTE D: No charge shall be made to the accounts of this classification representing the value of cinders accumulated by the carrier.

§ 103.12 Track laying and surfacing.

This account shall include the cost of distributing (including train service), laying, and adjusting ties, rails, and other track material used in the construction of tracks for the movement or storage of locomotive or cars, including repair tracks, but not tracks on car floats or temporary tracks the cost of which is chargeable to clearing accounts. It shall also include the cost of the labor expended in placing ballast in tracks not previously ballasted.

NOTE A: The cost of distributing and adjusting ties, rails, ballast, and other track material for repairs shall be charged to Operating Expenses, both when such materials are replaced in kind and when replaced with improved and heavier material.

NOTE B: The cost of work-train service in delivering ballast and of unloading such material is provided for in Account 11, "Ballast."

§ 103.13 Right-of-way fences.

This account shall include the cost of right-of-way fences (including permanent snow and sand fences erected in lieu of right-of-way fences), farm gates, cattle guards, wing fences, aprons, and hedges, on property not previously fenced, excluding those around stockyards, fuel stations, station and shop grounds, and building sites.

§ 103.14 Snow and sand fences and snowsheds.

This account shall include the cost of snowsheds, including rock filling when necessary, and cost of permanent or portable fences for the protection of tracks from snow and sand, other than such permanent fences erected in lieu of right-of-way fences and chargeable to Account 13, "Right-of-way fences."

§ 103.15 Crossings and signs.

This account shall include the cost of constructing farm passes, highways, and other railways across the carrier's right of way, except railways crossing at grade; cost of track signs, crossing gates, highway-crossing alarms, planking, paving, and watch houses at crossings; and the portion borne by the carrier of cost of overgrade and undergrade crossings constructed to eliminate grade crossings.

Details of Grade Crossings

(See general instructions, § 103.02-13)

Batteries, with track instruments and connections.
Crossing gates.
Crossing signal bells.
Paving.
Planking.
Soil crossing drains.
Warning signals.
Watch houses.
Water pipes.

Details of Overgrade Crossings

(See general instructions, § 103.02-13)

Bridge superstructures.
Bridge substructures.
Decking, including roadways.
Drainage systems.
Piers, including foundations.
Retaining and wing walls, including foundations.

Details of Undergrade Crossings

(See general instructions, § 103.02-13)

Curbing.
Drainage systems.
Paving on right-of-way.
Retaining walls outside of bridge abutments.
Roadways.
Sidewalks.

List of Signs

(See general instructions, § 103.02-13)

Boundary signs.
Mile signs.
Monument stones.
Overhead-bridge caution signs.
Section signs.
Slow or stop signs.
Subdivision boards.
Tunnel caution signs
Water station signs.
Water trough signs.
Whistle signs.
Yard-limit signs.

NOTE A: The cost of shop and station overgrade footbridges and subways not public highways shall be included in the cost of the buildings.

NOTE B: The cost of bridges or trestles carrying the carrier's tracks over roads, highways, or other railways shall be charged to Account 6, "Bridges, trestles, and culverts," but the cost of a bridge or other structure which carries farm passes, highways, or the tracks of another carrier over the carrier's tracks shall be included in this account.

§ 103.16 Station and office buildings.

This account shall include the cost of station and office structures, their fixtures, appurtenances, and furniture necessary first to equip the buildings for use.

STATION AND OFFICE STRUCTURES AND DETAILS

(See general instructions, § 103.02-13)

Baggage rooms.
Breakwaters for protection of buildings.
Buildings and rooms for trainmen.
Buildings on piers.
Call bells.
Coal bins.
Coal transferring machinery (not on coal and ore wharves).
Coal trestles (not at fuel stations).
Commissarial buildings.
Drainage and sewerage systems.
Dwellings.
Eating houses.
Electric wiring.
Elevators and machinery.
Express buildings.
Fences.
Fire-engine houses.
Freight cranes.
Freight derricks.
Freight handling machinery.
Freight houses.
Garages.
Gas-supply systems.
General office buildings.
Grain cribs.
Grain elevators.
Grain warehouses.
Greenhouses.
Hay houses.
Heating plants.
Hedges.
Hoisting engines, for handling freight.
Hose houses.
Ice houses.
Lighting plants.
Mail cranes.
Milk stands.
Office buildings.
Ore-transferring machinery.
Outhouses.
Pavement within ground limits.
Platforms, freight.
Platforms, passenger, including planking between tracks.
Power distribution systems, interior.
Reading rooms.
Rooms for Y.M.C.A.
Scale houses.
Sidewalks.
Stables.
Station footbridges (not highway crossings).
Station intertrack fences.
Station platforms.
Station signs.
Station stairways.
Station subways (not highway crossings).
Station powerhouses.
Stations, freight.
Stations, passenger.
Stock pens.
Storehouses.
Telegraph offices.
Telpher systems.
Track scales.
Transfer houses.
Transfer platforms.
Waiting rooms.
Warehouses.
Washrooms.
Water-supply systems.
Yard offices.

NOTE A: Office buildings used exclusively in connection with maintenance of way shall be included in Account 17, "Roadway buildings." Those used exclusively in connection with maintenance of equipment shall be included in Account 20, "Shops and enginehouses."

NOTE B: The cost of grading and preparing grounds, both before and after the construction of station and office buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.17 Roadway buildings.

This account shall include the cost of roadway shops and other roadway buildings, including drainage, water, gas, and sewer pipes and connections, and all machinery, fixtures, and furniture to equip the buildings ready for use.

LIST OF ROADWAY BUILDINGS

(See general instructions, § 103.02-13)

Bins for material.
Blacksmith shops.
Boarding houses.
Breakwaters for protection of buildings.
Carpenter shops.
Dwellings.
Fire-engine houses.
Frog shops for repair of track material.
Fand-car houses.
Lighting plants.
Lumber sheds.
Offices.
Outhouses.

Planing mills.
Rail shops for repair of track material.
Repair shops.
Scrap bins.
Section dwelling houses.
Stables.
Storehouses.
Tool houses.
Watch houses.

NOTE C: The cost of grading and preparing grounds both before and after the construction of roadway buildings, and the cost of constructing sidewalks, driveways, and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.18 Water stations.

This account shall include the cost of structures, facilities, and appliances necessary to equip for service stations for supplying water. The cost of analyses of water preliminary to the establishment of water stations shall be included in this account.

WATER STATION STRUCTURES AND DETAILS

(See general instructions, § 103.02-13)

Boilers.
Breakwaters for protection of buildings.
Buildings on piers.
Cisterns.
Dams.
Fences.
Outhouses.
Penstocks.
Pump houses.
Pumps.
Purifying plants.
Reservoirs.
Settling basins.
Stationary engines.
Steam pipes.
Tanks and foundations.
Test wells.
Track tanks.
Tubs.
Water cranes.
Water pipe lines.
Water-treating plants.
Wells.
Windmills.

NOTE A: The cost of water stations used solely for supplying water to shops, power plants, stations, hotels, tenement houses, or section houses shall be charged to the appropriate accounts relating to the property so supplied.

NOTE B: The cost of a temporary water station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the water station is used.

NOTE C: The cost of grading and preparing grounds both before and after the construction of water station buildings, and the cost of constructing sidewalks, driveways, and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.19 Fuel stations.

This account shall include the cost of structures, facilities other than tracks, and appliances necessary to equip for service stations for supplying fuel to locomotives and floating equipment.

FUEL STATION STRUCTURES AND DETAILS

(See general instructions, § 103.02-13)

Breakwaters for protection of buildings.
Buckets.
Buildings on piers.
Coal buckets.
Coal buggies.
Coal hoists.
Coal pockets and chutes.
Dumping machinery.
Elevating machinery.
Fences.
Fuel houses or stations.
Fuel-oil columns.
Fuel-oil plants.
Fuel-oil pumps.
Fuel-oil sumps.
Fuel-oil tanks.
Fuel platforms.
Fuel wharves.
Inclines.
Outhouses.
Scales.
Sheds.
Stationary engines.
Tipple cars.
Weighing apparatus.
Wood racks.

NOTE A: The cost of fuel stations, coal houses, etc., used solely for supplying fuel to shops, power plants, stations, hotels, tenement houses, or section houses shall be charged to the appropriate accounts relating to the property so supplied.

NOTE B: The cost of a temporary fuel station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the fuel station is used.

NOTE C: The cost of grading and preparing grounds both before and after the construction of fuel station buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.20 Shops and enginehouses.

This account shall include the cost of buildings to be used as shops, engine- houses, and storehouses for material for maintenance of equipment; foundations, except those special to particular machines and other apparatus; furniture and fixtures other than equipment chargeable to Account 44. "Shop machinery"; drainage, sewage, and water supply systems; and plants for heat and light.

SHOP AND ENGINEHOUSE STRUCTURES AND DETAILS

(See general instructions, § 103.02-13)

Air-compressor houses.
Ash pits and pockets.
Ash plants.
Bins for material.
Blacksmith shops.
Breakwaters for protection of buildings.
Buildings on piers.
Car sheds.
Car shops.
Carpenter shops.
Cinder pits.
Cinder pockets.
Drop pits.
Dry houses.
Electric-power distribution systems within buildings.
Enginehouses.
Fire-engine houses.
Footbridges (not public highways).
Foundries.
Gas-compressor houses.
Heating plants.
Hose houses.
Ice houses.
Laboratories.
Lighting plants.
Lumber sheds.
Machine shops.
Material and supply truck tracks.
Motor-crane tracks.
Offices, shop.
Oil houses.
Outhouses.
Paint shops.
Pipe lines, air, interior.
Pipe lines, car-heating.
Pipe lines, gas, interior.
Planing mills.
Platform, shop and yard.
Repair shops.
Sand houses.
Scale houses.
Scrap bins.
Sidewalks.
Stables.
Steam-distribution systems, interior.
Storehouses.
Tanks, gas.
Tanks, oil.
Test rooms.
Tin shops.
Tool houses.
Track scales.
Transfer tables.
Turntables.
Upholstering shops.
Warehouses.
Wash rooms.
Watch houses.

NOTE A: The cost of distinct power plant buildings for shop purposes shall be included in Account 29. "Power plant buildings." Cost of distribution systems leading from such power plants to shops and enginehouses shall be included in Account 32 "Power distribution systems."

NOTE B: The cost of grading and preparing grounds both before and after the construction of shop and enginehouse buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

NOTE C: The cost of shop buildings devoted solely to the maintenance of way and structures shall be included in Account 17 "Roadway buildings."

§ 103.21 Grain elevators.

(a) This account shall include the cost of structures for the transfer, treatment, and storage of grain, including cost of conveyors, machinery and fixtures.

(b) The buildings referred to in this account are not small storage elevators at stations where grain is received for shipment, etc., but large elevators in which grain is stored for various owners.

NOTE A: Small storage elevators at way stations are classed as station buildings.

NOTE B: The cost of grading and preparing grounds both before and after the construction of grain-elevator buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of the permanent water rights shall also be included in the cost of the buildings.

§ 103.22 Storage warehouses.

(a) This account shall include the cost of storage warehouses, including machinery and fixtures therein.

(b) The buildings referred to in this account are not the ordinary freight warehouses or stations where freight is received for shipment, etc., but warehouses in which merchandise is stored and which the railway companies or others operate commercially as storage warehouses.

NOTE: The cost of grading and preparing grounds both before and after the construction of storage warehouse buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.23 Wharves and docks.

This account shall include the cost of wharves, docks, dry docks, slips, float bridges, and other landings for vessels, including the cost of necessary dredging and the cost of float-bridge machinery; also the cost of piling, pile protection, cribs, cofferdams, walls, and other necessary devices and apparatus for the operation or protection of wharves and docks.

DETAILS OF WHARVES AND DOCKS

(See general instructions, § 103.02-13)

Bridge pontoons.
Bulkheads.
Caissons.
Cribwork.
Dry docks.
Ferry-bridge machinery.
Ferry bridges.
Ferry racks.
Ferry slips.
Jetties.
Jetty inclines.
Transfer-bridge machinery.
Transfer bridges.

NOTE A: The cost of coal and ore wharves and docks shall be included in Account 24, "Coal and ore wharves."

NOTE B: The cost of the land on which wharves are built and cost of riparian or water rights for wharves and docks shall be charged to Account 2, "Land for transportation purposes."

NOTE C: The cost of buildings located on wharves shall be included in the accounts appropriate for the class of building.

NOTE D: The cost of grading and preparing grounds both before and after the construction of wharves (other than coal and ore wharves) and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the wharves but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the wharves.

§ 103.24 Coal and ore wharves.

This account shall include the cost of wharves and docks for the transfer, treatment, blending, or storage of coal or ore, including the cost of necessary dredging and of conveyors, machinery, and fixtures.

NOTE A: The structures referred to in this account do not include small transfer or storage trestles or wharves at stations where coal is stored or delivered, such trestles being classed as station buildings.

NOTE B: The cost of grading and preparing grounds both before and after the construction of coal and ore wharves, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the wharves, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the wharves, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the wharves.

§ 103.25 Gas producing plants.

This account shall include the cost of gas producing and gas compressing plants, and the cost of machinery and other apparatus in such plants.

NOTE: The cost of grading and preparing grounds both before and after the construction of gas-plant buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.26 Telegraph and telephone lines.

This account shall include the cost of telegraph and telephone lines, including terminal equipment.

DETAILS OF TELEGRAPH AND TELEPHONE

TERMINAL EQUIPMENT

(See general instructions, § 103.02-13)

Batteries.
Cables and wires, interior.
Conduits, interior.
Connecting wires.
Current-controlling instruments.
Electric generators and motors.
Electric meters.
Engines, stationary.
Fuses and mechanical protectors.
Rectifiers.
Rheostats.
Sending and receiving instruments.
Switchboards.
Testing outfits.
Transformers.

DETAILS OF TELEGRAPH AND TELEPHONE

OUTSIDE PLANT

(See general instructions, § 103.02-13)

Aerial attachments.
Braces.
Brackets.
Cable boxes and appurtenances.
Cables and wires, aerial.
Conduits and appurtenances.
Cross arms.
Guy stubs.
Guy wires.
Insulators.
Poles.
Submarine cables and connections.
Telephone pole boxes.
Towers.
Underground cables and connections.

§ 103.27 Signals and interlockers.

This account shall include the cost of interlocking and other signal apparatus for governing the movement of trains, including towers and other buildings in connection therewith.

DETAILS OF SIGNALS AND INTERLOCKERS

(See general instructions, § 103.02-13)

Air compressors.
Batteries.
Boilers.
Distant signals.
Dynamos.
Engines, stationary.
Gates at crossings of other railways.
Home signals.
Interlocker buildings.
Interlocker machinery.
Interlocker mechanism.
Levers.
Rail bonds.
Railway-crossing signals.
Relays.
Semaphores.
Signal and switch levers.
Signal arms.
Signal blades.
Signal bridges.
Signal buildings.
Signal lamp brackets and connections.
Signal lamps.
Signal machinery.
Signal poles and foundations.
Signal pulleys and foundations.
Special appliances.
Station signals.
Train-order signals.
Wiring.

NOTE A: When signal or interlocking apparatus is located in a station building, the entire cost of the building shall be included in Account 16, "Station and office buildings."

NOTE B: The cost of grading and preparing grounds both before and after the construction of signal and interlocker buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and bet terment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.28 Power dams, canals, and pipe lines.

This account shall include the cost of all dams, canals, pipe lines, and accessories devoted to the utilization of water power for the operation of trains and cars, and to furnish power, heat, and light for general purposes.

DETAILS OF DAMS, CANALS, AND PIPE LINES

(See general instructions, § 103.02-13)

Aqueducts.
Bridges.
Fences.
Footbridges.
Forebays.
Gates.
Grids.
Inlet valves.
Penstocks.
Reservoirs.
Roadways.
Sluices.
Valves.
Viaducts.
Walls.
Water rights.

§ 103.29 Power plant buildings.

This account shall include the cost of the buildings of power plants erected to furnish power for the operation of trains and cars, and to furnish power, heat, and light for stations, shops, or general purposes; foundations, except those special to particular machines and other apparatus; drainage, water, and sewer pipes and their connections; fixtures, including wiring for lighting and heating and miscellaneous furniture and fixtures.

NOTE A: The cost of power plant machinery and other apparatus shall be included in Account 45, "Power plant machinery."

NOTE B: The cost of grading and preparing grounds, both before and after the construction of power plant buildings, and the cost of constructing sidewalks, driveways, and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.30 Power substation buildings.

This account shall include the cost of the buildings of power substations (including storage-battery stations) erected to transform power for the operation of trains and cars, and for heat, light and general purposes; foundations, except those special to particular machines and other apparatus; drainage, water, and sewer pipes and their connections; fixtures, including wiring, for lighting and heating; and miscellaneous furniture and fixtures.

NOTE A: The cost of substation machinery and other apparatus for transforming or storing power in power substations shall be included in Account 46, "Power substation apparatus."

NOTE B: The cost of grading and preparing grounds, both before and after the construction of power substation buildings, and the cost of constructing sidewalks, driveways, and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

§ 103.31 Power transmission systems.

This account shall include the cost of high-tension transmission systems, whether overhead, surface or underground, used for transferring power from producing plants to a place where it is transformed for propelling trains and cars, or for power, heat, light, and general purposes.

DETAILS OF POWER TRANSMISSION SYSTEMS

(See general instructions, § 103.02-13)

Cables.
Cut-outs (not at power houses and substations).
Feed wires.
Guard wires.
Insulators and connections.
Span wires.
Switchboards (not at power houses and substations).
Transformers (not at power houses and substations).

NOTE: When the electric current generated or received is changed by means of (a) rotary converters, (b) motor generator sets, or (c) static transformers (substation apparatus), that portion of the line or outside conductor system carrying current of other than the operating kind or voltage shall be classed as transmission system. When electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including any feeders, trolley wires, booster circuits, and supplementary return, shall be classed wholly as distribution system. Tie lines between generating stations and substations shall follow the same rule as other lines.

§ 103.32 Power distribution systems.

This account shall include the cost of distribution systems, whether overhead, surface, or underground, for conveying low-tension electric power from producing plants or transformer stations and for conveying steam and compressed-air from producing plants to the place where used for propelling trains and cars, or for power, heat, light, and general purposes.

DETAILS OF POWER DISTRIBUTION SYSTEMS

(See general instructions, § 103.02-13)

Compressed-air pipe lines.
Cut-outs (not at power houses and substations).
Feed wires.
Guard wires.
Insulators and connections.
Overhead trolley wires.
Rail bound plugs.
Rail bonds.
Rail-insulating devices.
Span wires.
Steam pipe lines.
Switchboards (not at power house and substations).
Third rail.
Third-rail braces.
Third-rail insulation and protection.
Third-rail supports.

NOTE A: The cost of track material such as insulated rail splices used in connection with distribution systems shall be charged to Account 10, "Other track material."

NOTE B: The cost of the portions of distribution systems located within shop buildings and station and office buildings shall be included in the cost of the buildings. The cost of distribution systems in plants used exclusively for operating signals and interlockers shall be included in Account 27, "Signals and interlockers."

NOTE C: When the electric current generated or received is changed by means of (1) rotary converters, (2) motor generator sets, or (3) static transformers (substation apparatus), that portion of the line or outside conductor system carrying current of other than the operating kind or voltage shall be classed as transmission system. When the electric current is generated or received and used substantially unchanged in voltage and kind, the line or outside conductor system, including any feeders, trolley wires, booster circuits, and supplementary return, shall be classed wholly as distribution system. Tie lines between generating station and substations shall follow the same rule as other lines.

§ 103.33 Power line poles and fixtures.

This account shall include the cost of poles, cross arms, insulating pins, brackets, and other pole fixtures; braces and other supports for holding the poles in position; and structures for supporting the overhead electric construction.

§ 103.34 Underground conduits.

This account shall include the cost of conduits required for underground wires and cables of electric railway construction, including manholes, sewer connections, sewer traps, and all details necessary for the completion of the conduit system.

§ 103.35 Miscellaneous structures.

This account shall include the cost of all permanent structures not provided for elsewhere including all fixtures and furniture to equip them for use.

§ 103.36 Paving.

This account shall include the cost of paving about tracks in public highways through which the carrier's tracks are laid.

NOTE: The cost of paving upon the carrier's lands, within the grounds of buildings or other structures, shall be included in the accounts provided for the cost of the structures. The cost of paving upon the carrier's right of way at crossing shall be included in Account 15, "Crossings and signs."

§ 103.37 Roadway machines.

This account shall include the cost of the initial outfit of roadway machines provided for the maintenance of roadway and structures at the time the road is opened for commercial traffic, and the cost of additional roadway machines acquired subsequently.

List of Roadway Machines

(See general instructions, § 103.02-13)

Boilers, portable.
Cars, hand.
Cars, lever.
Cars, motor inspection.
Cars, push.
Cars (small), crane, for supply yards and general use.
Concrete mixers.
Ditching machines.
Dredging machines.
Engines, portable.
Grading outfits.
Hydraulic outfits.
Jacks, hydraulic.
Log loaders.
Pile drivers.
Plows, unloading.
Rail unloaders.
Rock crushers.
Steam rollers.
Timber trucks.
Velocipedes.

Note A: When an important addition and betterment project or the construction of a new line necessitates the purchase of roadway machines to be used exclusively thereon, the cost shall be included in the accounts to which the cost of the work is charged. The amount realized from any subsequent sale, or the appraised value of the machines retained after the completion of the special work for which they were purchased, shall be credited to the accounts charged with the cost thereof. The appraised value of such machines retained shall be debited to this account and thereafter considered as the cost of such property.

Note B: The cost of machines for the equipment of roadway shops shall be included in Account 17, "Roadway buildings," as provided for therein.

Note C: The cost of roadway machines, such as pile drivers, log loaders, hoist engines, and concrete mixers, when permanently mounted for movement on the carrier's tracks, shall be included in Account 57, "Work equipment."

§ 103.38 Roadway small tools.

This account shall include the cost of the initial outfit of roadway and track small tools provided for the maintenance of way and structures at the time the road is opened for commercial traffic; also the initial outfit of such tools provided for the maintenance of extensions of such road.

List of Roadway Tools

(See general instructions, § 103.02-13)

Adzes.
Anvils.
Augers.
Axes.
Ballast forks.
Bars, claw.
Bars, crow.
Bars, lining.
Bars, pinch.
Bars, raising.
Bars, tamping.
Braces and bits.
Brooms.
Brush hooks.
Cable stretchers.
Cables.
Cans, oil.
Cans, water.
Cant hooks.
Chains.
Chisels, track.
Chisels, wood.
Curbing hooks.
Dippers.
Drawing knives.
Drill bits.
Drills, portable.
Flags, signal.
Furnaces, portable.
Grindstones.
Hammers, napping.
Hammers, paving.
Hammers, spiking.
Handles for tools.
Hatchets.
Hoes.
Jack levers.
Jacks, ratchet.
Jacks, screw.
Jacks, track.
Kegs, water.
Ladders.
Lanterns and fixtures.
Lawn mowers.
Levels.
Lines for ditching.
Nippers.
Oilstones.
Padlocks.
Pails, water.
Paint brushes.
Picks, clay.
Picks, tamping.
Pike poles.
Post-hole diggers.
Post-hole tampers.
Punches.
Rail benders.
Rail tongs.
Rakes.
Rope.
Saws, crosscut.
Saws, hand.
Scrap boxes.
Scythes.
Shovels.
Sickles.

Sledges.
Spades.
Spike mauls.
Spike pullers.
Spot-boards.
Squares.
Straightening machines.
Tape lines.
Thermometers for laying rail.
Tongs.
Tool boxes.
Torches.
Track gauges.
Track levels.
Vises.
Weed spuds.
Wheelbarrows.
Whetstones.
Wood mallets.
Wrenches, monkey.
Wrenches, track.

NOTE: The cost of roadway and track small tools of which no specific record is kept shall be charged when acquired to an appropriate materials and supplies account from which they shall be charged as issued to the appropriate road and equipment, operating expense, or other accounts. When such tools are used both for construction and maintenance work the cost shall be equitably apportioned among the accounts provided for the two classes of work.

§ 103.39 Assessments for public improvements.

This account shall include the carrier's proportion of the cost of constructing public improvements—such as grading, sewering, curbing, guttering, paving, and sidewalks—and other public improvements, including the cost of such improvements if made by the carrier's own employees under Government requirements.

NOTE A: The cost of paving required by Government authority between rails and adjacent to tracks laid through public highways shall be included in Account 36, "Paving."

NOTE B: The carrier's proportion of the cost of maintaining such public improvements shall be included in operating expenses.

§ 103.40 Revenues and operating expenses during construction.

(a) This account shall include the cost of operating a piece of road during the period before the regular operation of revenue trains, including rent and repairs of equipment used in commercial service during such period. It includes the cost of running construction trains over such section of road when the cost of operating such trains cannot properly be charged to any specific account.

(b) To this account shall be credited amounts collected for rents of buildings and other properties and for the transportation of commercial freight or of passengers on construction trains; also the net profits from boarding and commissarial outfits, and other sources of operating revenue.

(c) Carriers which wish to subdivide this account shall use appropriate subaccounts corresponding to accounts prescribed in the operating revenue, operating expense, or income account classifications.

§ 103.41 Cost of road purchased.

(a) This account shall include the cash cost of any road or portion thereof purchased. Where the contract of purchase includes not only road, but also equipment, securities, and other assets, the appraised value of such equipment, securities, and other assets shall be deducted from the total cash cost, and the remainder of the cash cost shall be charged to this account. Where the consideration given for the property purchased is other than cash, such consideration shall be valued on a current cash basis. If the consideration includes the assumption of liabilities, such liabilities shall be included in the determination of the cost at their cash value at the time the contract is made.

(b) This account shall be used only as a clearing account in which temporarily to carry the cost of road purchased until such time as a plan for distributing such cost to the primary accounts appropriate for the property is approved by the Commission.

NOTE A: The appraised value of any equipment thus acquired shall be charged to the appropriate equipment accounts. The value, at time of purchase, of any securities, or other assets acquired, shall be included in the accounts appropriate for such assets. The par value of any liabilities assumed shall be included in the appropriate liability accounts, and the necessary adjustments between the cash value charged to the property accounts and the par value shall be made in the appropriate premium or discount account.

NOTE B: The carrier shall be prepared to furnish the Commission, upon demand, a full report of the contract of acquisition of each road, or portion thereof, purchased, and a statement showing in detail the consideration given therefor. It should procure, in connection with the acquisition of any such road and equipment, all existing records, memoranda, and accounts in possession or control of the grantor, relating to the construction and improvements of such road and equipment, and shal. preserve such records, memoranda, and accounts until authorized by law to destroy or otherwise dispose of them. Where the records, memoranda, and accounts are so intimately involved with other records, memoranda, and accounts of the grantor as to make their transfer impracticable or inadvisable, certified copies of them shall be procured and retained by the grantee. The verity of the copies should be certified by the custodian of the originals.

§ 103.42 Reconstruction of road purchased.

When a road is purchased and the fixed improvements acquired are in such a physical condition that it is necessary substantially to rebuild the road in order to bring it up to the standard required by the carrier, the cost of such rebuilding shall be charged to this account.

NOTE A: A comprehensive statement of the estimated amount necessary to reconstruct a road in accordance with the above provision shall be made to the Commission as soon as the estimate is made.

NOTE B: When the work of reconstruction of road purchased is completed, the cost thereof shall be credited to this account and charged to other primary accounts of this classification appropriate for the expenditures made.

§ 103.43 Other expenditures—road.

This account shall include items which cannot properly be included in any of the foregoing accounts as a part of the cost of any specific work, such as the cost of transportation of men, materials, supplies, and equipment over the carrier's own line; amounts paid for rent and repairs of equipment and for injuries to persons incident to and in connection with original road, road extensions, or additions and betterments; and analogous items. When assignable, such expenditures shall be included in the cost of the property in connection with which the expenditure occurs.

NOTE: Rents paid for and repairs made to equipment used in commercial operations during the period before the regular operation of revenue trains shall be charged to Account 40, "Revenues and operating expenses during construction."

§ 103.44 Shop machinery.

This account shall include the cost of machinery and other apparatus in shops and enginehouses, including the cost of special foundations and installation, and cost of small hand tools necessary first to equip a shop.

LIST OF SHOP MACHINERY

(See general instructions, § 103.02-13)

Air compressors.
Ash conveyers.
Belting.
Blowers.
Boilers for furnishing power.
Boring machines.
Cars, motor.
Cars, push.
Cranes.
Drill presses.
Drilling machines.
Drop tables.
Forges.
Framing machines.
Furnaces.
Grinding and polishing machines.
Hoists.
Hydraulic jacks.
Lathes.
Lifting magnets.
Metal chimneys.
Milling machines.
Motors.
Pipe cutting and threading machines.
Planers.
Pneumatic hammers.
Power equipment.
Punches.
Riveters.
Saws.
Shafting.
Shapers.
Slotters.
Stationary engines.
Steam hammers.
Vises.
Welding machines.
Woodworking machines.

NOTE A: The cost of power plant machinery and other apparatus for shop purposes, when located in distinct buildings, shall be included in Account 45, "Power plant machinery."

NOTE B: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building, and not in this account.

§ 103.45 Power plant machinery.

This account shall include the cost of machinery and other apparatus for generating power in power plants used for the operation of trains and cars, or to furnish power, heat, and light for stations, shops, or general purposes, including the cost of special foundations and installation.

DETAILS OF POWER PLANT MACHINERY

(See general instructions, § 103.02-13)

Ammeters.
Batteries.
Belting.
Boiler-room appliances and tools.
Boilers and fittings.
Boosters.
Cables.
Circuit breakers.
Clutches.
Conductors.
Cranes.
Cut-outs.
Draft machinery.
Dynamos.
Economizers.
Electric-power distribution systems, interior.
Engine-room appliances and tools.
Feed-water heaters.
Furnaces.
Generators.
Globes.
Hangers.
Heating apparatus.
Hoists.
Insulators.
Lamps.
Lighting apparatus.
Lubricating devices.
Machinery and foundations.
Mechanical stokers.
Piping.
Poles.
Pumps.
Purifiers.
Rheostats.
Sewer connections.
Shafting.
Stationary engines.
Steam distribution systems.
Steam fittings.
Switchboards.
Tanks.
Transformers.
Turbines.
Voltmeters.
Water meters.
Water wheels.
Wires from generator or transformer switchboard.

NOTE A: The cost of power machinery an other apparatus installed in a shop as par of the shop equipment shall be included Account 44, "Shop machinery."

NOTE B: The cost of power machinery an other apparatus installed in stations and o fices and used solely for station and offic purposes shall be included in Account 1 "Station and office buildings."

NOTE C: The cost of power machinery an other apparatus in plants used solely for operating signals and interlockers shall be included in Account 27, "Signals and interlockers."

NOTE D: The cost of foundations othe than those special to particular machine and other apparatus shall be included in th cost of the building, and not in this accoun

§ 103.46 Power substation apparatus.

This account shall include the cos of machinery and other apparatus, including the cost of special foundation and installation, for transforming o storing power in power substation used for the operation of trains and cars, and for power, heat, and light for stations, shops, or general purposes.

DETAILS OF POWER SUBSTATION APPARATUS

(See general instructions, § 103.02-13)

Rotary converters.
Storage batteries.
Switchboards.
Transformers.

NOTE A: The cost of constructing machinery and other apparatus for transforming or storing power shall be included in Account 45, "Power plant machinery," when such equipment is contained in a power plant.

NOTE B: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building, and not in this account.

§ 103.47 Unapplied construction material and supplies.

(a) This account shall include the cost of material and supplies located at the point of use which have been purchased for projected new roads and road extensions.

(b) The purpose of this account is to exclude from the current assets the cost of supplies and unapplied material which are located for use on projected new roads and road extensions.

under the condition that the material will not be used for other purposes.

NOTE A: Material and supplies designed for projected new roads and road extensions which are carried in storehouses and store yards and included in the general stock of an operating company shall be included in balance-sheet account 716, "Materials and supplies."

NOTE B: The cost of unapplied materials and supplies on hand at the completion of construction work shall be transferred to Balance-sheet account 716, "Materials and supplies."

EQUIPMENT

The several primary accounts included in this general account are designed to show the cost of the several classes of equipment owned by the carrier, or held under equipment trust agreements for purchase.

To the appropriate primary accounts in this general account shall be charged the cost of all equipment, such as steam locomotives, electric locomotives, passenger-train cars, freight-train cars, work equipment, floating equipment, and the necessary appurtenances, furniture, and fixtures first to equip for service, including the cost of inspection, setting up, and trying out, and transportation over foreign lines; also the cost of additions, such as headlights, mechanical stokers, power brakes, vestibules, machinery for self-propulsion, heating and lighting apparatus, and the like; and the excess cost of betterments, such as improved appliances, parts, or appurtenances, over the cost at current prices (as new) of the appliances, parts or appurtenances removed. The cost of removing the old appliances and applying the improved shall be charged to Operating Expenses.

The ledger value of each unit of equipment shall be credited to the appropriate equipment account when it is retired from service. The amount of this credit shall be concurrently charged as follows:

The amount of the balance in the balance-sheet accrued depreciation account with respect to the equipment thus retired shall be charged to that account; the salvage recovered shall be charged to the materials and supplies account or elsewhere, according to the purpose for which used; the amount of depreciation prior to July 1, 1907, not previously written off or provided for, shall be charged to Profit and Loss; and the remainder shall be charged to the appropriate operating expense account for equipment retired. The cost of demolishing the equipment, if demolished by or for the carrier, shall be charged to the appropriate operating expense account for equipment retirements.

When the cost of the renewals to be made to any unit of equipment will constitute the major portion of its value as renewed, the equipment, when taken out of service, shall be considered as retired and accounted for as provided in the preceding paragraph, and for the purpose of this classification the renewed equipment shall be considered an addition and the appraised cost thereof shall be included in the account appropriate for the cost of the equipment. In no case shall the charge for the renewed equipment exceed the cost (the current market prices of labor and material) of new equipment of similar type, equal capacity, and equal expectation of life in service, less a suitable allowance on account of the secondhand parts remaining therein.

When equipment of one class is converted so as to be includible in another class, the accounting shall be as provided in general instructions, section 11.

When an important addition and betterment project or the construction of new lines necessitates the purchase of equipment to be used exclusively therein, the cost of such equipment shall be included in the accounts representing the cost of the work, and no charge shall be made to Operating Expenses for depreciation on such equipment while the cost remains so charged. The amount realized from any subsequent sale, or the appraised value of the equipment retained after the completion of the special work for which it was purchased, shall be credited to the accounts charged with its cost. The appraised value of such equipment retained shall be debited to the appropriate primary account herein, and thereafter, for the purposes of accounting, such appraised value shall be considered as the cost of the equipment.

When secondhand equipment acquired is in such physical condition that it is necessary to make extensive repairs to it to bring it up to the standard required by the carrier the cost of such repairs shall be included in the account appropriate for the cost of the equipment. A comprehensive statement of the amount estimated to be necessary to rebuild secondhand equipment in accordance with the above provision shall be furnished to the Commission as soon as the estimate is made.

§ 103.51 Steam locomotives.

This account shall include the cost of steam locomotives and tenders, purchased or built by the carrier, and of appurtenances, furniture, and fixtures necessary to equip them for service, including the cost of inspection, setting up, and trying out after receipt from builders, and transportation charges to the carrier's line.

LIST OF APPURTENANCES TO LOCOMOTIVES

(See general instructions, § 103.02-13)

Air-brake equipment and hose.
Arm rests.
Awnings.
Brake fixtures.
Cab cushions.
Cab lamps.
Clocks.
Coal boards.
Fire-extinguishing apparatus.
Gongs.
Head lamps.
Metallic packing.
Pneumatic sanding equipment.
Seat boxes.
Signal lamps.
Speed recorders.
Steam-gauge lamps.
Steam-heat equipment and hose.
Storm doors.
Tool boxes.
Train-signal equipment and hose.

§ 103.52 Other locomotives.

This account shall include the cost of locomotives other than steam, purchased or built by the carrier, and of appurtenances, furniture, and fixtures necessary to equip them for service, including inspection, setting up, and trying out after receipt from builders, and transportation charges to the carrier's line.

NOTE: Cars with motor equipment are not to be classed as locomotives.

§ 103.53 Freight-train cars.

This account shall include the cost of freight-train cars of all classes, including motor-driven cars, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip them for service, and the cost of inspection and transportation charges to the carrier's line.

LIST OF FREIGHT-TRAIN CARS

(See general instructions, § 103.02-13)

Ballast (commercial).
Beer.
Box.
Cabin.
Caboose.
Charcoal.
Coal.
Coke.
Dump (commercial).
Flat.
Fruit.
Furniture.
Gondola.
Gondola (hopper).
Gondola (long).
Gun truck.
Hay.
Lime.
Logging.
Oil tank.
Ore.
Platform.
Poling.
Poultry.
Produce.
Rack.
Refrigerator.
Stock.
Tank and water (when used as commercial cars).

LIST OF APPURTENANCES TO FREIGHT-TRAIN CARS

(See general instructions, § 103.02-13)

Air-brake equipment, including hose.
Cooking equipment and utensils.
Cushions.
Heating equipment.
Ice boxes.
Lamps and fixtures.
Seats.
Speed recorders.
Train-signal equipment, including hose.
Water tanks.

NOTE: The cost of motor equipment of cars shall be included in Account 55, "Motor equipment of cars."

§ 103.54 Passenger-train cars.

This account shall include the cost of passenger-train cars of all classes, including motor-driven cars, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip them for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF PASSENGER-TRADE CARS

(See general instructions, § 103.02-13)

Baggage.
Baggage-express.
Baggage-mail.
Baggage-mail-express.
Buffet.
Cafe.
Chair.
Club.
Colonist.
Dining.
Express.
Immigrant.
Library.

Mail.
Milk.
Observation.
Parlor.
Parlor-baggage.
Passenger.
Passenger-baggage.
Passenger-baggage-mail.
Postal.
Refrigerator-express.
Sleeping.
Smoking.
Tourist.

LIST OF APPURTENANCES TO PASSENGER-TRAIN CARS

(See general instructions, § 103.02-13)

Air-brake equipment, including hose.
Bedding.
Chairs.
Coat hooks.
Curtains and fixtures.
Cushions.
Electric bells.
Floor coverings.
Heating equipment.
Ice boxes.
Ice tanks.
Kitchen equipment and utensils.
Lighting equipment.
Mail catchers.
Parcel racks.
Ranges and boilers.
Seats.
Speed recorders.
Steam-heat hose.
Table china.
Table glassware.
Table linen.
Table silver.
Toilet equipment.
Train-signal equipment, including hose.
Water tanks.

NOTE: The cost of motor equipment on cars shall be included in Account 55, "Motor equipment of cars."

§ 103.55 Motor equipment of cars.

This account shall include the cost of motor equipment of all cars, including the wiring for such electric equipment.

DETAILS OF MOTOR EQUIPMENT

(See general instructions, § 103.02-13)

Batteries, storage.
Circuit breakers.
Controllers.
Engines, internal-combustion.
Generators.
Lightning arresters.
Motors.
Overload switches.
Rheostats.
Switches.
Third-rail contact.
Trolley poles.
Trolleys.

§ 103.56 Floating equipment.

This account shall include the cost of marine or floating equipment, of all kinds except work equipment, purchased or built by the carrier, including all appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF FLOATING EQUIPMENT

(See general instructions, § 103.02-13)

Barges.
Canal boats.
Car and other floats.
Ferryboats.
Lighters.
Power launches.
Power lighters.
Scows.
Steamboats.
Steamships.
Transfer boats.
Tugboats.

LIST OF APPURTENANCES TO FLOATING EQUIPMENT

(See general instructions, § 103.02-13)

Anchors.
Axes.
Barometers.
Beds and bedding.
Binnacle lamps.
Blocks and tackle.
Boilers and foundations.
Cables.
Capstan bars.
Carpets.
Charts.
China, crockery, and glassware.
Chronometers.
Clocks.
Compasses.
Counters.
Desks.
Engines and foundations.
Fire buckets.
Fire extinguishers.
Floor coverings.
Flue cleaners.
Furniture.
Gangplanks.
Hatchets.
Heating equipment.
Hoisting equipment.
Hooks.
Keys.

Kitchen equipment.
Life preservers.
Lighting equipment.
Linen.
Lines.
Logs.
Machinery and foundations.
Masts.
Oil cans.
Pianos and other musical instruments.
Pumps.
Racks.
Railings.
Rakes.
Rigging.
Safes.
Sails.
Scales.
Seats, chairs, and cushions.
Shovels.
Slice bars and pokers.
Spyglasses.
Steam distribution systems.
Steering equipment.
Telescopes.
Ticket cases.
Tool boxes.
Tools, miscellaneous.
Tracks on car floats.
Ventilating equipment.
Wrenches.

§ 103.57 Work equipment.

This account shall include the cost of work equipment, including motor-driven equipment, purchased or built by the carrier; cost of appurtenances, furniture, and fixtures necessary to equip it for service, and cost of inspection and transportation charges to the carrier's line.

LIST OF RAIL WORK EQUIPMENT

(See general instructions, § 103.02-13)

Air-brake instruction cars.
Ballast cars.
Ballast unloader cars.
Boarding cars.
Bridge cars.
Business cars.
Camp cars.
Cinder cars.
Concrete mixers (mounted).
Derrick cars.
Dirt spreaders (mounted).
Ditching cars.
Dump cars.
Dynamometer cars.
Gas tank cars.
Grading cars.
Gravel cars.
Indicator cars.
Locomotive tanks used permanently as water cars.
Locomotives.
Officers' cars.
Outfit cars.
Painters' cars.
Pay cars.
Pile drivers (mounted).
Rail saws (mounted).
Salt cars.
Sanding cars.
Scale test cars.
Scraper cars.
Snow dozers.
Snow drags.
Snow plows (moved by but not attached to locomotives).
Sprinkling cars.
Steam shovels.
Steam wrecking derricks.
Supply cars.
Sweeper cars.
Tool cars.
Tool and block cars.
Water cars.
Weed burners (mounted).
Wrecking cars.

LIST OF FLOATING WORK EQUIPMENT

(See general instructions, § 103.02-13)

Derricks.
Dredges.
Pile drivers.

APPURTENANCES TO FLOATING WORK EQUIPMENT

(See general instructions, § 103.02-13)

Anchors.
Axes.
Barometers.
Beds and bedding.
Blocks and tackle.
Boilers and foundations.
Cables.
China, crockery, and glassware.
Compasses.
Cushions.
Desks.
Engines and foundations.
Fire extinguishers.
Fire buckets.
Floor coverings.
Flue cleaners.
Gangplanks.
Hatchets.
Heating equipment.
Hoisting equipment.
Hooks.
Keys.
Life preservers.
Lighting equipment.
Linen.
Lines.
Machinery and foundations.
Masts.
Oil cans.

Pumps.
Rakes.
Rigging.
Sails.
Seats and chairs.
Shovels.
Slice bars and pokers.
Steam distribution systems.
Steering equipment.
Tool boxes.
Tools, miscellaneous.
Wrenches.

NOTE: The cost of motor equipment of cars shall be included in Account 55, "Motor equipment of cars."

§ 103.58 Miscellaneous equipment.

This account shall include the cost of horses and harness, and cost of wagons, automobiles, and other highway vehicles.

GENERAL EXPENDITURES

NOTE: The primary accounts of this general account are designed to include expenditures made in connection with the acquisition and construction of original road and equipment, and with extensions, additions, and betterments to road and equipment property, when such expenditures can not properly be included in any of the foregoing accounts as a part of the cost of any specific work. When assignable, such expenditures shall be included in the cost of the property in connection with which the expenditures occur.

§ 103.71 Organization expenses.

This account shall include all fees paid to governments for the privilege of incorporation, and office and other expenditures incident to organizing the corporation and putting it in readiness to do business, cost of preparing and distributing prospectuses; cost of soliciting subscriptions for stock; cash fees paid to promoters, and the actual cash value (at the time of the organization) of securities paid to promoters for their services in organizing the enterprise; special counsel fees; cost of preparing and issuing certificates of stock; cost of procuring the necessary certificates from State authorities; and other like costs.

NOTE: Cost of soliciting for loans or for the sale of bonds or other evidences of indebtedness shall be charged to Balance-sheet Account 725, "Discount on funded debt."

§ 103.72 General officers and clerks.

This account shall include the pay and expenses of executive and general officers and of general office clerks engaged exclusively in connection with the construction of new road and extensions.

NOTE: The salaries and expenses of executive and general officers and of general office clerks engaged in connection with the conduct of commercial operations during the period before the regular operation of revenue trains shall be included in Account 40, "Revenues and operating expenses during construction."

§ 103.73 Law.

This account shall include specific and distinct expenditures, not provided for elsewhere, for law service in connection with the acquisition of new road, road extensions, additions, and betterments, such as pay and expenses of counsel, solicitors, and attorneys, their clerks and attendants, and expenses of their offices.

ITEMS OF EXPENSE

(See general instructions, § 103.02-13)

Arbitrators' services in settlement of disputed questions.
Cost of taking depositions.
Cost of testimony.
Costs of suits.
Court bonds.
Court expenses.
Express charges.
Fees and retainers of attorneys not regularly employed.
Law books.
Legal forms.
Legal reports.
Notarial fees not provided for elsewhere.
Office expenses.
Printing of briefs, testimony, etc.
Rent of offices.
Special fees.
Telegraph service.
Telephone service.
Traveling expenses.
Witness fees not provided for elsewhere.

NOTE: Court costs and special counsel fees in connection with the acquisition of land for transportation operations shall be included in Account 2, "Land for transportation purposes."

§ 103.74 Stationery and printing.

This account shall include the cost of stationery, stationery supplies, postage, office devices, and printed matter used by any class of employees in connection with construction and not provided for elsewhere.

ITEMS OF STATIONERY AND PRINTING

(See general instructions, § 103.02-13)

Adding machines.
Addressographs and supplies.
Arm rests.
Binders.
Blank books.
Blotters.
Blotting paper.
Bristol board.
Calculating machines.
Calendars.
Carbon paper.
Cardboard.
Cards, blank and printed.
Circulars.
Computing tables.
Copy (impression) books.
Copying brushes.
Copying presses.
Crayons.
Cross-section books.
Cross-section paper.
Cyclostyles.
Dating stamps and ribbons.
Dictaphones.
Dictographs.
Drawing paper.
Duplicators.
Electric pens.
Envelopes.
Erasers, rubber and steel.
Eyelet punches.
Eyelets.
File boxes.
Forms, blank and printed.
Fuel tickets.
Glass pens.
Hectographs.
Indexes.
Ink for writing and drawing.
Inkstands.
Invoice books.
Legal cap paper.
Letter paper.
Manifold paper.
Manifold pens.
Mimeographs.
Mucilage.
Mucilage brushes.
Neostyles.
Note paper.
Notices.
Numbering stamps.
Oil paper.
Paper.
Paper baskets.
Paper clips.
Paper cutters.
Paper fasteners.
Paper files.
Paper weights.
Papyrographs.
Parchment paper.
Pencil sharpeners.
Pencils for writing and drawing.
Penholders.
Penracks.
Pens for writing and drawing.
Phonographs and records.
Pins.
Postage.
Punches (not conductors' or baggagemen's).
Rubber bands.
Rubber stamps.
Rulers.
Ruling pens.
Scrapbooks.
Sealing wax.
Seals.
Shears.
Shipping tags.
Shorthand notebooks.
Sponge cups.
Sponges.
Stamps, impression.
Stylographs.
Tablets, blank and printed.
Tape.
Telegraph blanks.
Time-tables.
Tissue (impression) paper.
Tracing cloth.
Tracing paper.
Twine.
Typewriters and ribbons.
Wage tables.
Wastebaskets.
Watercolors.
Water holders.
Waybills.
Wrapping paper.
Wringers for copying presses.

NOTE A: The cost of printing bonds, etc., in connection with the carrier's funded debt shall be included in Balance-sheet account 725, "Discount on funded debt."

NOTE B: The cost of stationery and printing when assignable, shall be included in the cost of the property in connection with the acquirement or construction of which the expenditure occurs.

§ 103.75 Taxes.

This account shall include State, county, township, city, school, road, annual franchise, and all other taxes and assessments levied and paid on property belonging to the carrier during construction and before the facilities are used for commercial operations, except special assessments for street and other improvements chargeable to Account 36, "Paving," or 39, "Assessments for public improvements."

NOTE: Taxes during construction, when assignable, shall be included in the cost of the property acquired or constructed.

§ 103.76 Interest during construction.

(a) When any bonds, notes, or other evidences of indebtedness are sold, or any interest-bearing debt is incurred for acquisition and construction of original road and equipment, extensions, additions, and betterments, the interest accruing on the part of the debt representing the cost of property chargeable to road and equipment accounts (less interest, if any, allowed by depositaries on unexpended balances) after such funds become available for use and before the receipt or the completion or coming into service of the property so acquired shall be charged to this account.

(b) When such securities are sold at a premium the proportion of such premium assignable to the time between the date of the actual issuance of the securities and the time when the property acquired or the improvement made becomes available for service shall be credited to this account.

(c) This account shall also include such proportion of the discount and expense on funded debt issued for the acquisition of original road, original equipment, road extensions, additions, and betterments, as is equitably assignable to the period between the date of the actual issuance of securities and the time when the property acquired or the improvement made becomes available for the service for which it is intended. The proportion of discount and expense thus chargeable shall be determined by the ratio between the period prior to the completion or coming into service of the facilities or improvements acquired and the period of the entire life of the securities issued.

(d) This account shall also include reasonable charges for interest, during the construction period before the property becomes available for service, on the carrier's own funds expended for construction purposes.

NOTE A: Interest on bonds, notes, or other evidences of indebtedness accruing before the proceeds from the sale of the securities become available for use shall not be included in this account, nor shall there be included any interest accruing after the property with respect to which the proceeds are expended is received or becomes available for use in connection with commercial service.

NOTE B: If any securities which have been issued or assumed by the carrier are sold or exchanged by or for the carrier for a consideration the actual money value of which at the time of such sale or exchange is less than the value of the securities at par and the accrued interest thereon, if any, the difference between the money value of the consideration received and the par value of the securities plus the accrued interest shall be deemed a discount. In no case (except as provided in the third and fourth paragraphs of this account) shall discounts be included as part of the cost of anything charged to any account prescribed in this classification.

NOTE C: For definition of securities actually issued, see Note B, under General Balance-sheet Account 755, "Funded debt unmatured."

NOTE D: Whenever interest, premium, or discount assignable to the construction period is incurred in connection with an expenditure covered by some specific road and equipment account or accounts, such interest, premium, or discount shall be charged directly to the specific accounts to which it is related.

§ 103.77 Other expenditures—general.

This account shall include all expenditures of a special and incidental nature in connection with the acquisition and construction or original road and equipment, road extensions, additions, and betterments which cannot properly be included in any other account in this classification.

PART 104—[RESERVED]

NOTE: For the Uniform System of Accounts for all Public Utilities, see Part 101 of this subchapter.

PART 116—UNITS OF PROPERTY FOR USE IN ACCOUNTING FOR ADDITIONS AND RETIREMENTS OF ELECTRIC PLANT

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7102-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Federal Power Act, 16 U.S.C. 791a-828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

SOURCE: Order 235, 26 FR 9887, Oct. 21, 1961, as amended by Order 390, 49 FR 32515, Aug. 14, 1984.

INSTRUCTIONS

1. The retirement units listed herein are prescribed and are to be accounted for in accordance with Electric Plant Instruction 10, Additions and Retirements of Electric Plant, of the Uniform System of Accounts Prescribed for Public Utilities and Licensees.

2. The list of units may be expanded by any utility without other authorization from this Commission, but it shall not be condensed. This, the retirement units listed herein are of maximum size and while a subdivision thereof, or the addition of other units, is permitted, the combination or the increase in size of such units is not permitted without the approval of the Commission.

3. Whenever appropriate, the retirement of any unit of property in the structures or equipment account shall include all costs of associated items which pertain solely to that unit, such as the cost of foundations, supports, ladders, runways, enclosures, guards, driving mechanisms, indicating, recording, and measuring devices with their mountings, starting, control, regulating, protective, and safety devices, switchboards, special lighting conduits and wiring, pipes, ducts, spouts, chutes, hoppers, etc.

4. The appearance of a retirement unit under an account warrants the inclusion of the unit in the account mentioned only when the text of the account also indicates the inclusion as the same unit frequently appears under more than one account.

The omission of an item from the list in an account or its inclusion in a functional system does not preclude its treatment as a retirement unit if it is relatively costly and not an integral part of a larger retirement unit. The list of General Retirement Units, instruction 6 below, should be read in connection with the lists under the respective accounts since in some cases retirement units have not been separately listed because they appear in the List of General Retirement Units and are common to more than one account. Likewise the List of General Retirement Units and these instructions should be considered in connection with listed retirement units designated as "system," etc. In these cases, particularly if "system," etc., be extensive, a component of such system, such as a relative costly piece of apparatus not an integral part of a larger retirement unit, or a unit specified in the List of General Retirement Units, should be separately treated as a retirement unit.

5. It is contemplated that the list of units contained herein will be revised and amended from time to time as experience and conditions warrant.

6. List of General Retirement Units:

In all accounts where they occur, the following shall be considered a retirement unit, if relatively costly and not an integral part of the retirement unit specifically listed.

The term "relatively costly" applies to the relationship of the cost of the item to the cost of other items in that particular account of sub-account for the particular station or plant.

(1) Assembly for two or more retirement units.

(2) Blower or fan.

(3) Control installation, automatic, semi-automatic, or remote (such as, pressure, voltage, current, speed, level, weight and volume regulators).

(4) Coupling device, i.e., speed reducer, speed increaser, clutch coupling, etc.

(5) Driving unit, i.e., prime mover, motor, gas engine, etc.

(6) Enclosure for two or more retirement units (fence, guard, railing, etc.).

(7) Foundation for a unit of equipment, when not an integral part of the building and its usefulness is not intended to outlast the equipment for which provided.

(8) Instrument or device for indicating measuring, recording or weighing.

(9) Instrument transformer.

(10) Landscaping (complete at one location).

(11) Plant piping, a run of any system (gas, oil, steam, water, etc.), 6 inches or over in size, with or without valves, between two or more retirement units of property, and/or a header. (See Note A and Item 17.)

(12) Piping header, 6 inches or over in size, with or without valves or blocking. (See Note A and Item 17.)

(13) Platforms, ladders, stairs, runways (complete section).

(14) Pump.

(15) Road, walk, parking lot, etc.

(16) Tank, vessel, etc.

(17) Valve, power operated, pressure reducing, atmospheric relief, or relatively costly valve.

NOTE A: Whenever appropriate, the "piping" costs of additions and retirements shall include all costs for pipes, valves, fittings, specials, covering, hangers, supports, etc., pertaining to the run or header in question.

[Order 235, 26 FR 9887, Oct. 21, 1961, as amended by Order 390, 49 FR 32515, Aug. 14, 1984; Order 484, 52 FR 45169, Nov. 25, 1987]

LIST OF RETIREMENT UNITS

(The article a, an, or the, as appropriate, should be read in connection with each retirement unit of property listed herein)

STEAM PRODUCTION

311 Structures and Improvements.

1. Air conditioning system, ventilating system, heating system, or any combination thereof.

2. Bin or bunker (when part of structure framework).

3. Bridge, trestle, etc.

4. Bulkhead, retaining wall, etc.

5. Canal, dam, dock, pier, wharf.

6. Drainage and sewerage system.

7. Elevator, crane, hoist, etc., complete with operating mechanism.

8. Equipment item, such as, a generator, engine, turbine, compressor, or similar item of equipment includible in structures, with or without associated wiring, control equipment, etc.

9. Fence, complete with gates.

10. Fire escape system.

11. Fire protection system.

12. Foundation (equipment) when includible in structure.

13. Light and power system.

14. Plumbing system.

15. Refrigeration system.

16. Railroad or track system, including culverts, etc.

17. Roof, with or without supporting members. (A structure of irregular shape having more than one roof level may have several isolated roofs, each of which shall be considered an entire roof. In the case of structures to which lateral extensions have been made, even though having but one roof level, that part of the roof covering an entire section built at one time shall be considered an entire roof.)

18. Structure, complete, with or without stack or chimney.

19. Tunnel, pipe line, etc.

20. Vacuum cleaning system.

21. Water basin or reservoir.

22. Water supply system, including well.

23. Yard drainage system.

24. Yard lighting system.

312 Boiler Plant Equipment.

A. Steam Boiler Installation:

1. Boiler complete with furnace, boiler setting, grates, etc.

2. Desuperheater.

3. Foundation, boiler, when independent of structure.

4. Fuel burning equipment for one boiler (grates, stokers, stoker drive, burners, etc.).

5. Reheater, when separate from boiler.

6. Soot blower system for one boiler.

7. Superheater, when separate from boiler.

B. Draft Equipment:

1. Air duct system.

2. Air heater.

3. Breeching system.

4. Cinder or fly ash collecting equipment, such as, cinder catcher, precipitator, hopper, concentrator, etc.

5. Stack, with or without foundation.

C. Feed Water System:

1. Deaerator.

2. Economizer, when separate from boiler.

3. Heat exchanger.

4. Heater, feed water (main or stage).

5. Regulator, feed water.

D. Coal Fuel Equipment:

1. Bin or bunker not includible in structures.

2. Bin unloader.

3. Barge.

4. Capstan, winch or power moving equipment.

5. Car, lorry.

6. Car dumper, puller, shaker, thawing system, etc.
7. Chutes or spouts, system of.
8. Coal moving equipment (bulldozer, carry-all, tractor, drag scraper, etc.).
9. Conveyor system (belt, cable way, portable, screw, etc.).
10. Crane (locomotive, gantry or monorail).
11. Crusher.
12. Dust collecting unit.
13. Electric trolley or third rail system.
14. Elevator (vertical, bucket, skip hoist).
15. Gates, chutes, downtakes, spreaders, or hoppers, for one boiler.
16. Hoist or derrick.
17. Hopper, track or weigh.
18. Locomotive.
19. Sampling system.
20. Screening or sizing installation.
21. Separator, magnetic.
22. Structure, fuel handling (not includible in structures account).
23. Track system.
24. Trestle.
25. Weighing device, including track scale, coal meter, etc.

E. Pulverized Fuel Equipment:
1. Air filter or washer.
2. Air preheater.
3. Air compressor.
4. Conveyor.
5. Chutes, ducts or transport pipes, system of.
6. Coal feeder, raw or powdered.
7. Crusher.
8. Dryer.
9. Hopper or bin.
10. Pulverizer.
11. Screening or sizing installation.
12. Separator, electric or mechanical (dust collector or concentrator).

F. Oil Fuel Equipment:
1. Heater.

NOTE: See list of general retirement units.

G. Gas Fuel Equipment:

NOTE: See list of general retirement units.

H. Ash Handling Equipment:
1. Ash hopper (when not includible in structures account).
2. Car.
3. Clinker grinder (when a separate unit).
4. Conveyor or elevator.
5. Crane hoist or derrick.
6. Dust collecting system.
7. Electric trolley or third ra system.
8. Locomotive.
9. Removal system (vacuum, stea jet, or hydraulic).
10. Sluiceway or piping system.
11. Storage bin or pit.
12. Sump dredge.
13. Track system.

I. Water Supply and Purificatio System:
1. Pipe, intake or discharge (whe not includible in structures account).
2. Tunnel, intake or discharge (whe not includible in structures account).
3. Water softener or purificatio system, including demineralizer, etc.
4. Well.

NOTE: See list of general retirement unit

J. Ventilating Equipment:
1. Air duct system.
2. Cooler or heater.
3. Washer.

K. Instruments and Meters:
1. Automatic control installation.
2. Master controller installation.
3. Panel or panels, devoted to single purpose, with equipment assoc ated thereto.

L. Boiler Plant Piping:

NOTE: See list of general retirement unit

M. Process Steam Equipment:
1. Separator or purifier.
2. Accumulator.
3. Automatic control for accumula tor.
4. Trap, high pressure.

N. Wood Fuel Equipment:
1. Hopper or bin.
2. Fuel hogs.
3. Elevator, conveyors, etc.

313 Engines and Engine-Driven Genera tors.

314 Turbogenerator Units.

A. Engine-Driven Generating Instal lation (Account 313):
1. Drive or connection betwee engine and generator.
2. Engine.
3. Exciter.
4. Foundation, independent of struc ture.
5. Generator.
6. Governor control system.

B. Turbogenerator Installation (Account 314):
1. Equipment, starting and turning.
2. Exciter.
3. Foundation, independent of structure.
4. Generator.
5. Governor control system.
6. Turbine.
C. Condensing and Cooling Water System (Accounts 313 and 314):
1. Air ejector apparatus for one condenser.
2. Condenser.
3. Condenser tube protective system (chemical, electric, electrolytic, etc.).
4. Cooling tower.
5. Intake or discharge, screen and mechanism.
6. Pump, circulating, condensate, vacuum, etc.
7. Spraying system.
8. Tunnel, intake, or discharge (when not includible in structures account).
D. Central Generator Cooling System (Accounts 313 and 314):
1. Air duct system.
2. Air washer.
3. Cooler.
4. Hydrogen system, including storage cylinder, etc.
E. Central Lubricating System (Accounts 313 and 314):
1. Accumulator.
2. Cooler.
3. Purifier or filter.
F. Instruments and Meters (Accounts 313 and 314):
1. Panel or panels, devoted to a single purpose, with equipment associated thereto.
G. Engine and Turbine Plant Piping (Accounts 313 and 314):

NOTE: See list of general retirement units.

315 Accessory Electric Equipment.

(See Account 353 for applicable retirement units of property.)

316 Miscellaneous Power Plant Equipment.

Each principal item, system or set of equipment, such as:
1. Air compressor.
2. Air conditioning or ventilating equipment (portable unit).
3. Barge, boat, or similar item of marine equipment.
4. Car, railway.
5. Communication system, station signal or call.
6. Compressed air system.
7. Crane, hoist or derrick.
8. Fire protection equipment (general station use).
9. Laboratory equipment, principal item, such as drying oven, calorimeter, etc.
10. Locomotive.
11. Oil-reclaiming installation.
12. Refrigeration system.
13. Tool, each principal item such as forge, lathe, drill press, steam hammer, welding equipment, etc.
14. Vacuum cleaning system.

NOTE: If any of the units of property listed above are a part of a structure and includible in account 311, Structures and Improvements, they shall be accounted for through that account.

NUCLEAR PRODUCTION

321 Structures and Improvements.

(See Account 311 for applicable retirement units of property.)

322 Reactor Plant Equipment

Boiling Water Reactor

A. Reactor:
1. Reactor vessel internals.
2. Reactivity control systems.
3. Reactor vessels and appurtenances.
4. Reactor trip systems.
B. Reactor Coolant System and Connected Systems:
1. Coolant recirculation systems and controls.
2. Main steam systems and controls.
3. Main steam isolation systems and controls.
4. Reactor core isolation cooling systems and controls.
5. Residual heat removal systems and controls.
6. Feedwater systems and controls.
7. Reactor coolant pressure boundary leakage detection system (When not part of another retirement unit).
8. Other coolant subsystems and controls (not included as an item elsewhere).
9. Engineered safety feature instrument systems.

10. Systems required for safe shutdown.

11. Safety related display instrumentation.

12. Coolant injection systems.

13. Other instrument systems.

C. Containment System:

1. Reactor containment.

2. Containment heat removal systems and controls.

3. Containment air purification and cleanup systems and controls.

4. Containment isolation systems and controls.

5. Containment combustible gas control systems and controls.

6. Other containment systems and controls.

D. Fuel Storage and Handling Systems:

1. New fuel storage equipment and/or racks.

2. Spent fuel storage equipment and/or racks.

3. Spent fuel pool cooling and cleanup systems and controls.

4. Fuel handling systems.

E. Auxiliary Water Systems:

1. Cooling systems for reactor auxiliaries and controls.

F. Auxiliary Process Systems:

1. Process sampling system.

2. Failed fuel detection systems.

3. Reactor coolant cleanup systems and controls.

4. Liquid poison systems and controls.

G. Radioactive Waste Management Systems:

1. Liquid radioactive waste management systems.

2. Gaseous radioactive waste management systems.

3. Process and effluent radiological monitoring systems.

4. Solid radioactive waste management systems.

H. Radiation Protection Systems:

1. Area monitoring systems.

2. Airborne radioactivity monitoring systems.

3. Control room habitability systems and controls.

I. Other Systems:

1. Auxiliary boiler system.

2. Control air systems.

3. Service water system.

4. Vent and drain system.

5. Ventilating equipment.

6. Water supply and purification or cleanup system.

NOTE: See list of general retirement units.

Pressurized Water Reactor

A. Reactor:

1. Reactor vessel internals.

2. Reactivity control systems.

3. Reactor vessels and appurtenances.

4. Reactor trip systems.

B. Reactor Coolant System and Connected Systems:

1. Coolant recirculation systems and controls.

2. Main steam systems and controls.

3. Main steam isolation systems and controls.

4. Emergency core cooling systems and controls.

5. Residual heat removal systems and controls.

6. Feedwater systems and controls.

7. Reactor coolant pressure boundary leakage detection systems (when not part of another retirement unit).

8. Other coolant subsystems and controls (not included as an item elsewhere).

9. Engineered safety feature instrument systems.

10. Systems required for safe shutdown.

11. Safety related display instrumentation.

12. Other instrument systems.

C. Containment Systems:

1. Reactor containment.

2. Containment air purification and cleanup systems and controls.

4. Containment isolation systems and controls.

5. Containment combustible gas control systems and controls.

6. Other containment systems and controls.

D. Fuel Storage and Handling Systems:

1. New fuel storage equipment and/or racks.

2. Spent fuel storage equipment and/or racks.

3. Spent fuel cooling and cleanup systems and controls.

4. Fuel handling systems.

E. Auxiliary Water Systems:

1. Cooling systems for reactor auxiliaries and controls.

F. Auxiliary Process System:

1. Process sampling system.

2. Failed fuel detection system.

3. Chemical and volume control systems and controls.

G. Radioactive Waste Management Systems:

1. Liquid radioactive waste mangement systems.

2. Gaseous radioactive waste management systems.

3. Process and effluent radiological monitoring systems.

4. Solid radioactive waste management systems.

H. Radiation Protection Systems:

1. Area monitoring systems.

2. Airborne radioactivity monitoring systems.

3. Control room habitability systems and controls.

I. Other Systems:

1. Auxiliary boiler system.

2. Control air systems.

3. Service water system.

4. Vent and drain system.

5. Ventilating equipment.

6. Water supply and purification or cleanup system.

NOTE: See list of general retirement units.

High Temperature Gas Reactor

A. Reactor:

1. Reactor.

2. Reactor reflector system.

B. Reactor Coolant System and Connected Systems:

1. Primary coolant systems and controls.

2. Secondary coolant systems and controls.

3. Feedwater and condensate system and controls.

4. Reactor plant piping.

5. Hydraulic power systems and controls.

6. Moisture monitoring control system.

7. Linear neutron flux monitor and control rod calibration.

8. Analytical depressurization box controls.

9. Analytical liquid sampling control system.

10. Analytical gaseous sampling control system.

11. Tritium monitoring control system.

C. Fuel Storage and Handling System:

1. Fuel storage systems and controls.

2. Fuel handling systems and controls.

D. Radioactive Waste Management Systems:

1. Radioactive liquid waste management systems and controls.

2. Radioactive gaseous waste management systems and controls.

3. Decontamination systems and controls.

E. Radiation Protection Systems:

1. Air monitor control systems and controls.

F. Auxiliary Boiler System.

G. Alternate Cooling Method.

NOTE: See list of general retirement units.

[Order 484, 52 FR 45169, Nov. 25, 1987, as amended at 52 FR 49157, Dec. 30, 1987]

323 Turbogenerator Units.

(See Account 314 for applicable retirement units of property.)

324 Accessory Electric Equipment.

(See Account 353 for applicable retirement units of property.)

325 Miscellaneous Power Plant Equipment.

(See Account 316 for applicable retirement units of property.)

HYDRAULIC PRODUCTION

331 Structures and Improvements.

(See Account 311 for applicable retirement units of property.)

332 Reservoirs, Dams and Waterways.

1. Apron.

2. Boom.

3. Bridge or draw span.

4. Bulkhead.

5. Cribbing, system of, when not a part of a dike, embankment, road, etc.

6. Dam.

7. Dike or embankment, with or without riprap or core wall.

8. Fence, complete.

9. Fish ladder, elevator or lock system.

10. Forebay.

11. Flume, tunnel, or canal.

12. Gate.

13. Gate hoist.

14. Gate hoist track.

15. Gate house and equipment.

16. Gate section.

17. Gravity section.

18. Heating or thawing system.

19. Intake house, when not a part of structure.

20. Lighting system, including wire, supports, fixtures, etc.

21. Lock, navigation.

22. Penstock.

23. Pier.

24. Piling, system of, to protect any of the structures.

25. Power and control system.

26. Road.

27. Sluice or wasteway.

28. Sewer complete.

29. Stability testing equipment.

30. Substructure, power plant.

31. Tailrace.

32. Tank, surge (complete with surge pipe, viser, housing, heating system, etc.).

33. Trash rack.

34. Trash rake with mechanism.

35. Valve, power operated or other relatively costly valve.

36. Walkway.

37. Wall, wing, cut-off baffle, retaining.

333 Water Wheels, Turbines and Generators.

A. Hydro-Generating Installation:

1. Drive or connection between water wheel and generator.

2. Exciter.

3. Foundation, independent of structure.

4. Generator.

5. Governor control system.

6. Valve, penstock, main or by-pass.

7. Water turbine or water wheel, with or without draft tube, scroll case or housing.

B. Central Generator Cooling System:

1. Air duct system.

2. Air washer.

3. Cooler.

C. Central Lubricating or Bearing Pressure System:

1. Accumulator.

2. Cooler.

3. Piping system.

4. Purifier or filter.

D. Instruments and Meters:

1. Panel or panels, devoted to a single purpose, with equipment associated thereto.

334 Accessory Electric Equipment.

(See Account 353 for applicable retirement units of property.)

335 Miscellaneous Power Plant Equipment.

(See Account 316 for applicable retirement units of property.)

336 Roads, Railroads and Bridges.

1. Bridge.

2. Culvert.

3. Draw span.

4. Railroad.

5. Road or trail.

6. Trestle.

OTHER PRODUCTION

341 Structures and Improvements.

(See Account 311 for applicable retirement units of property.)

342 Fuel Holders, Producers and Accessories.

A. Fuel Oil System:

1. Boiler, heating.

2. Heater, not a part of tank.

3. Meter, fuel oil.

4. Piping system, fuel oil.

5. Purifier.

6. Tank, including foundations, supports and fire protection.

B. Gas Fuel System:

1. Ash handling equipment for a producer.

2. Boiler.

3. Booster.

4. Compressor.

5. Fuel handling equipment for a producer.

6. Holder.

7. Meter.

8. Piping system, gas.

9. Producer.

10. Regenerator.

11. Scrubber or washer.

12. Vaporizing unit for butane gas.

343 Prime Movers.

A. Combustion Engines and Equipment:

1. Air intake equipment for one engine.

2. Drive or connection between engine and generator.
3. Engine, with or without foundation.
4. Governor control system.
5. Heat exchanger.
6. Muffler.
7. Panel or panels and instruments for one engine.
8. Stack.
9. Starting and turning device.

B. Central Lubricating System:
1. Cooler.
2. Piping system, oil.
3. Purifier or filter.

C. Central Cooling Water System:
1. Heat exchanger.
2. Piping system, cooling water.
3. Purification system, water.
4. Spraying system.
5. Tank, storage, surge, or hot-well.
6. Tower, cooling.

D. Central Starting System:
1. Compressor.
2. Piping system, starting.

E. Central Intake Air Supply:
1. Air duct system.
2. Air filter or screen.
3. Silencer.

F. Central Exhaust Gas System:
1. Heat exchanger (or waste heat boiler).
2. Muffler.
3. Piping system, exhaust.
4. Stack.

344 Generators.

1. Exciter.
2. Generator.
3. Panel or panels, devoted to a single purpose, with equipment accessory thereto.

345 Accessory Electric Equipment.

(See Account 353 for applicable retirement units of property.)

346 Miscellaneous Power Plant Equipment.

(See Account 316 for applicable retirement units of property.)

TRANSMISSION PLANT

352 Structures and Improvements.

(See Account 311 for applicable retirement units of property.)

353 Station Equipment.

1. Air compressor.
2. Air duct system.
3. Auxiliary generator set.
4. Battery charging set.
5. Bus and Wiring—Power:
a. Bus compartment or cubicle for equipment.
b. Bus—wires, cables, shapes, and insulators.
c. Cable or conductor, each continuous circuit run.
d. Conduit, duct or cable trench, each continuous run, bank or section.
6. Capacitor, static, bank of.
7. Condenser, synchronous.
8. Control installation, system operator's.
9. Converter, synchronous or rotary.
10. Crane or hoist.
11. Exciter.
12. Fire protection system or equipment.
13. Frequency changer.
14. Frequency control system.
15. Fuse equipment, set of high tension.
16. Generator voltage regulator system.
17. Lighting system.
18. Lighting arrester, 23 kv or higher, set of.
19. Manhole.
20. Motor generator set.
21. Oil purifier or filter.
22. Oil switch or circuit breaker.
23. Panel or panels, devoted to a single purpose, with equipment accessory thereto.
24. Reactor or resistor.
25. Rectifier.
26. Storage battery, set or bank for station control and power.
27. Structure forming or support for one or more units of equipment.
28. Switches, airbreak, grounding or set of disconnecting.
29. Switchgear (compartment, cubicle, etc.), complete assembly.
30. Telemetering equipment, each installation.
31. Testing equipment, set of.
32. Track system, transformer.
33. Transformer, not accessory to a panel.
34. Truck switch with wiring and instruments.
35. Truck, transformer.

36. Unit station.

37. Voltage regulator (see also item 16).

38. Wave trap, carrier current.

354 Towers and Fixtures.

1. Tower, with or without foundation.

355 Poles and Fixtures.

1. Frame, A or H, with or without associated cross- arms, guys, anchors, etc.

2. Pole, i.e., line pole, brace pole, or guy pole, with or without associated crossarms, guys, anchors, etc.

3. Special structure, such as, bridge fixture, river crossing, long-span fixture, with or without associated crossarms, guys, anchors, etc.

356 Overhead Conductors and Devices.

1. Conductor, two continuous spans of one circuit.

2. Circuit breaker.

3. Lightning arresters, set of.

4. Line switches, set of.

357 Underground Conduit.

1. Conduit, section of, between two manholes, or between a manhole and a pole.

2. Manhole, splicing chamber or vault (not including handholes).

3. Ventilating equipment, complete installation at one location.

4. Tunnel.

358 Underground Conductors and Devices.

1. Circuit breaker.

2. Cable (buried), with or without potheads, section between two termini points.

3. Cable (in conduit), with or without potheads, circuit between two manholes or vaults or between a manhole and a terminal.

4. Cable (submarine), with or without potheads, between terminal chambers or manholes.

5. Lightning arresters, set of.

6. Line switches, set of.

7. Pump house, complete structure (oil filled cables).

8. Pumping equipment, storage tank, etc., each installation (oil filled cables).

359 Roads and Trails.

(See Account 336 for applicable retirement units of property.)

DISTRIBUTION PLANT

361 Structures and Improvements.

(See Account 311 for applicable retirement units of property.)

362 Station Equipment.

(See Account 353 for applicable retirement units of property.)

363 Storage Battery Equipment.

(See Account 353 for applicable retirement units of property.)

364 Poles, Towers and Fixtures.

1. Frame, A or H, with or without associated crossarms, guys, anchors, etc.

2. Pole, i.e., line pole, brace pole, or guy pole, with or without associated crossarms, guys, anchors, etc.

3. Tower, with or without foundation.

365 Overhead Conductors and Devices.

1. Conductor, two continuous spans of one circuit.

2. Circuit breaker.

3. Lightning arresters, set of.

4. Line switches, set of.

NOTE: At option of utility, on distribution lines of low voltage, the retirement unit may comprise two continuous spans of one circuit including all associated line equipment.

366 Underground Conduit.

1. Conduit, section of, between two manholes or between a manhole and a pole.

2. Manhole, splicing chamber or vault (not including handholes).

3. Ventilating equipment, complete installation at one location.

4. Tunnel.

367 Underground Conductors and Devices.

1. Circuit breaker.

2. Conductor (buried), section of cable between two termini points.

3. Conductor (in conduit), circuit between two manholes or between a manhole and a pole.

4. Conductor (submarine), submerged length of cable between terminal chambers or manholes.
5. Lightning arresters, set of.
6. Line switches, set of.
7. Pump house, complete structure (oil filled cables).
8. Pumping equipment, storage tank etc., each installation (oil filled cables)

368 Line Transformers.

1. Transformer, capacitor bank, voltage regulator or network protector, with or without associated control and protective devices.

(See also text of Account 583, Overhead Line Expenses and Account 584 Underground Line Expenses.)

369 Services.

1. Overhead service.
2. Underground service, with or without duct.

370 Meters.

1. Current limiting device.
2. Instrument transformers, set of.
3. Meter.
4. Time switch.

(See also text of Account 586, Meter Expenses.)

371 Installation on Customers' Premises

1. Cable vault.
2. Commercial lighting equipment installation on one premise.
3. Equipment installation, such as a frequency changer, a motor generator set, etc.
4. Switchboard and wire or cable connections on one premise.

NOTE: See also other accounts for appropriate units of property.

372 Leased Property on Customers' Premises.

1. Equipment installation, such as a motor, a transformer, etc.

NOTE: See also other accounts for appropriate units of property.

373 Street Lighting and Signal Systems.

1. Capacitor, bank of.
2. Control equipment, such as, contactor, protector, clock operated switch, etc.
3. Post, standard or bracket, with or without luminaire or suspension lamp fixture.
4. Signal installations at one location.
5. Transformer.

NOTE: See also units as listed under accounts 365, Overhead Conductors and Devices, 366, Underground Conduit, 367, Underground Conductors and Devices, and 368, Line Transformers, when such property is included in this account.

GENERAL PLANT

390 Structures and Improvements.

(See account 311 for applicable retirement units of property.)

391 Office Furniture and Equipment.

Each principal item of equipment such as:

1. Office equipment; accounting machine, adding machine, calculating machine, coin counters, signature writer, typewriter.
2. Office furniture; desk, cabinet, safe, file.
3. Duplicating equipment; blueprint machine, photostat machine, offset press, photocopy machine, transcopy machine.
4. Mechanical processing equipment; key punch, sorters, tabulators, electronic calculators.

392 Transportation Equipment.

Each principal item of equipment such as:

1. Airplane.
2. Automobile.
3. Boat.
4. Electrical vehicle.
5. Motor truck.
6. Motorcycle.
7. Tractor.
8. Trailer, wagon, etc.

393 Stores Equipment.

Each principal item of equipment such as:

1. Counter, shelving, bins or racks, each location.
2. Crane, hoist, or chainfall.
3. Portable elevating and stacking equipment.
4. Truck.

394 Tools, Shop and Garage Equipment.

Each principal item of equipment such as:

1. Shop equipment and tools; drill press, welding machine, forge, furnace, lathe, planer, shaper.

2. Garage and repair equipment; gasoline or oil pump, battery charging set, car lift, power-driven greasing machine.

3. Tools and work equipment; pneumatic tool, welding set, power saw, transmit, level, concrete mixer.

395 Laboratory Equipment.

Each principal item of equipment such as:

1. Centrifuge.
2. Dynamometer.
3. Oscillograph.
4. Meter testing equipment.
5. Transformer, testing and loading.

396 Power Operated Equipment.

Each principal item of equipment such as:

1. Air compressor, including driving unit and vehicle.
2. Back filling machine.
3. Boring machine.
4. Brush grinder.
5. Bulldozer.
6. Crane or hoist.
7. Digger.
8. Locomotive.
9. Pile driver.
10. Pipe coating or wrapping machine.
11. Pipe cleaning machine.
12. Tractor.
13. Trencher.

397 Communication Equipment.

Each principal item or set of equipment such as:

1. Antenna and supporting structure.
2. Carrier current coupling capacitor.
3. Carrier current transmitting and receiving set.
4. Intercommunicating telephone apparatus.
5. Microwave apparatus.
6. Receiver, stationary or mobile.
7. Storage battery set or motor generator set.
8. Teletype apparatus.
9. Transmitter, stationary or mobile.

NOTE: Units of conductors, supports, and duct lines shall be identical with those prescribed for Accounts 354, 355, 356, 357, 358, 364, 365, 366 and 367.

398 Miscellaneous Equipment.

Each principal item of equipment if includible in this amount.

399 Other Tangible Property.

Units to be assigned as items of property are included herein.

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

Sec.

125.1 Promulgation.
125.2 General instructions.
125.3 Schedule of records and periods of retention.

AUTHORITY: Secs. 301, 304, 309; 49 Stat 854, 855, 856, 858, 859; 16 U.S.C. 825, 825c, 825h; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*), unless otherwise noted.

§ 125.1 Promulgation.

(a) This part is prescribed and promulgated as the regulations governing the preservation of records by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein;

(b) This part shall, as to all public utilities now subject to the jurisdiction of the Commission and as to all present licensees, become effective as herein revised on January 1, 1972. As to any public utility or licensee which may hereafter become subject to the jurisdiction of the Commission, this part shall become effective as of the date when such public utility becomes subject to the jurisdiction of the Commission or on the effective date of the license of such licensee.

[Order 450, 37 FR 6293, Mar. 28, 1972]

§ 125.2 General instructions.

(a) *Scope of this part.* (1) The regulations in this part apply to all books of account and other records prepared by or on behalf of the public utility or licensee. See subsection 64 of the schedule for those records which come into possession of the public utility or licensee in connection with the acquisition of property, such as purchase, consolidation, merger, etc.

(2) The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records for periods longer than those prescribed herein.

(3) Unless otherwise specified in the schedule (§ 125.3), duplicate copies of records may be destroyed at any time: *Provided, however,* That such duplicate copies contain no significant information not shown on the originals.

(4) Records other than those listed in the schedule may be destroyed at the option of the public utility or licensee: *Provided, however,* That records which are used in lieu of those listed shall be preserved for the periods prescribed for the records used for substantially similar purposes. And, *provided further,* That retention of records pertaining to added services, functions, plant, etc., the establishment of which cannot be presently foreseen, shall conform to the principles embodied herein.

(5) Notwithstanding the provisions of the Records Retention Schedule, the Commission may, upon the request of the Company, authorize a shorter period of retention for any record listed therein upon a showing by the Company that preservation of such record for a longer period is not necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) *Designation of supervisory official.* Each public utility or licensee subject to the regulations in this part shall designate one or more persons with official responsibility to supervise the utility's or licensee's program for preservation and the authorized destruction of its records.

(c) *Protection and storage of records.* The public utility or licensee shall provide reasonable protection for records subject to the regulations in this part from damage by fire, floods, and other hazards and, in the selection of storage spaces, safeguards the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

(d) *Definition of record media.* (1) For the purpose of these regulations, the data constituting the records listed in the schedule may be retained in any of the media forms in Figure 1 of this section, provided that the media selected has a standard life expectancy equal to or in excess of the specified retention period. However, records supporting plant and licensed project cost shall be retained in their original form, unless microfilmed. (See general instruction (j), for periods of retention.) In no instance, except in emergencies, will media regeneration to achieve the full length of period retention be allowed without Commission approval of the request of the company. In emergency cases management shall take such action as prudence calls for and notify the Commission immediately thereafter.

(2) If the media form of the record retained is other than a readable paper copy, then reader and/or printer equipment and related printout programs, if required, shall be provided by the utility for data reference.

(3) The media form initially selected for the record becomes the "original" for that particular record. If subsequent conditions (e.g. improved media life expectancy, increased utility resources, environmental factors) require and the remaining retention period permits a change in the media forms, the utility may convert to another media and dispose of its old equipment, provided the certification processes described in paragraph (e) of this section are observed and data referencing capability is maintained.

FIGURE 1—RECORD MEDIA

Record media/form	Media expected life	Comments and standards
1. Paper and card stock (hardcopy).	Archival permanency.	For each document, paper stock should be selected with a life expectancy equal to or greater than the retention period specified for that document.
2. Tape: Magnetic (including video tape).	5 years.	Assumes storage in a controlled environment with a temperature and humidity range of 60°-80° F. and 40-60%, respectively. (Ref. instruction (g) for specific storage conditions.)

FIGURE 1—RECORD MEDIA—Continued

Record media/form	Media expected life	Comments and standards
Punched	Archival permanency	For each record, tape media (paper, mylar, metallic base) should be selected with a life expectancy equal to or greater than the retention period specified for that record.
3. Microforms		
a. Microfilm, including Computer Output Microfilm (COM), microfiche jackets, and aperture cards.	do	Assumes processing to standards and storage in a controlled environment with a temperature and humidity range of 60-80 degrees F. and 40-50% respectively. (Ref. American National Standards Institute (ANSI) standards PH 5.4—1970, PH 1.41—1976, PH 1.28—1979, Ph 1.43—1981, or most current standards as accepted by the National Archives for use by Federal agencies. See 41 CFR 101-11.5)
b. Updatable type	Dependent on use of Media	For temporary records not requiring archival permanency so long as the microform or film selected has a life expectancy equal to, or greater than, the retention period for that record. Same storage conditions as for microfilm.
c. Metallic recording data strips.	Archival permanency	Same storage conditions as for microfilm.

(e) *Microform, tape and computer output certification.* (1) As the initial recording media—

(i) Except as provided in paragraph (e)(1)(ii) of this section each microform record series:

(A) shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the official responsible for validating or confirming the data contained therein; and

(B) shall be closed with a clear and standard microform notation indicating the completion of the series and the date.

(ii) If an official permanent record series is a computer output product (*i.e.*, output paper or microfilm, jacketed microfiche, or aperture cards), any certification that may otherwise
be required under paragraph (e)(1)(
of this section is not required if:

(A) The series is prepared in accord
ance with written standard procedure
developed, or accepted general bus
ness practices followed, by the compa
ny that ensure the integrity of recor
series that are the product of comput
er output; and

(B) Such procedures or practices in
clude the name or title of the officia
responsible for validating or confirm
ing the data contained in the recor
series and confirming that a particula
computer output record series was pro
duced in accordance with the standar
procedures or practices.

(iii) If after validation, supplementa
data and/or corrections (i.e., resultin
from computer programing) are re
quired, said microform may be pro
duced separately or as a part of th
series rerun, but shall be affixed t
the original microform certificate a
described in paragraph (e)(1)(i) of thi
section.

(iv) Each tape record series shall b
externally labeled and shall include, a
a basic part of the program, at the be
ginning of that series an introductio
stating the record series title, date pre
pared, the name of the official respon
sible for validating or confirming th
data contained therein and an inde
where appropriate. Each record serie
shall be closed with a clear and stand
ard notation indicating the completio
of that series and the date.

(2) Conversion from other media—

(i) Each microform record serie
shall include, as an integral part,
certificate(s) stating that the micro
forms are direct and facsmile repro
ductions of the original records an
that they have been made in accord
ance with prescribed instruction
Such certificate(s) shall be execute
by a person(s) having personal know
edge of the facts covered thereby.

(ii) Each microform record serie
shall commence and end with a state
ment as to the nature and arrange
ment of the records reproduced, an
the date. Rolls of film shall not be cu
except to produce jacketed microfiche
Supplemental or retaken film, wheth
er of misplaced or omitted document
or of portions of microform found t
be defective, shall be attached to th

beginning of the microform record series. However, if a retrieval system using such methods as, for example, image count indexing or "blipping" is used, the supplemental or retaken film may be attached at the end of the series, if provisions at the beginning of the series advise the viewer of the location of the problem frames and the location of the supplemental or retaken frames. If supplemental or retaken film of misplaced or omitted documents, or of portions of microform found to be defective, are attached to the microform record series, the certificate described in paragraph (e)(1)(i) of this section shall cover the supplemental or retaken film and shall state the reasons for the attachment.

(iii) If, in accordance with the provisions of paragraph (f) of this section, the utility or licensee elects to convert records to the tape media, the same certification provisions specified in paragraph (e)(1)(iii) of this section must be provided in the conversion program.

(f) *Change of media for existing records.* Those records prepared and maintained under previous regulations in a paper media and whose remaining retention period falls within the life expectancy range of any of the media detailed in Figure 1, may be converted to that media at the public utility's and/or licensee's option, provided the applicable certification processes described in paragraph (e) of this section are observed and an audit referencing capability maintained.

(g) *Media.* (1) All records created or maintained in a media and a format other than readable entries on paper shall:

(i) Be prepared, arranged, classified, identified, and indexed as to permit the subsequent location, examination, and reproduction of the record to a readable media;

(ii) Be stored in such a manner as to provide reasonable protection from hazards such as fire, flood, theft, etc.; and be maintained in a controlled environment;

(iii) Be regenerated, including proper certification, when damaged. (Also see § 125.2(d)(1).)

(2) The company shall be prepared to furnish, at its own expense, standard facilities for reading media and shall additionally provide, if the Commission so directs, copies of record in a readable form.

(3) All film stock shall be of approved operationally-permanent-record microcopying type, which meets the current specifications of the American National Standards Institute.

(h) *Destruction of records.* The destruction of the records permitted to be destroyed under the provisions of the regulations in this part may be performed in any manner elected by the public utility or licensee concerned. Precautions should be taken, however, to macerate or otherwise destroy the legibility of records, the content of which is forbidden by law to be divulged to unauthorized persons.

(i) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction or loss shall be filed with the Commission within ninety (90) days from the date of discovery of such destruction.

(j) *Schedule of records and periods of retention.* The schedule of records, § 125.3, shows the period of time that designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory commission having jurisdiction, and either (1) continuing plant inventory records are maintained (see Definition No. 8, "Continuing Plant Inventory Records", Parts 101 and 104 of this subchapter), or (2) unitization of construction costs appear in work orders, except that those relating to the construction of licensed projects, or additions or betterments thereto for which the Commission has not determined the actual legitimate original cost are to be retained until such cost has been determined. Additionally, all records which affect the determination of amortization reserves related to licensed projects shall be retained until Commission determination and final adjudication is made.

(k) *Retention periods designated "Destroy at option"*. Use of the retention period, "Destroy at option," in the regulations in this part constitutes authorization for such destruction under the conditions specified for the particular types of records, only if such optional destruction is appropriate to limited managerial interest in such records and if such optional destruction is not in conflict with other legal retention requirements or usefulness of such records in satisfying pending regulatory actions or directives.

(l) *Records of services performed by associated companies.* The public utility or licensee to which the regulations in this part apply shall assure the availability of records of services performed by associated companies for the periods indicated herein, as are necessary, to support the cost of services rendered to it by an associated company.

(m) *Index of records.* At each office of the public utility or licensee where records are kept or stored, such records as are herein required to be preserved shall be so arranged, filed and currently indexed that they may be readily identified and made available to representatives of the Commission.

(n) *Schedule of notes.* (1) For the purpose of the regulation, a stockholder's account may be treated as a closed account at the time that such stockholder ceases to be a holder of record of the particular class and series of stock of the company and the 6-year retention period prescribed herein shall run from that date. If such person subsequently acquires shares of capital stock of the company and thus again becomes a stockholder of the company, the record of such acquisition shall be treated as a new stockholder account.

(2) The terms "bonds" and "debentures," as used in captions (a) through (f) of this item, shall include all debt securities, such as bonds, debentures or notes other than debt securities which evidence temporary borrowings and which are expected to be repaid out of the proceeds of the sale of longer term securities. Typical of such temporary debt securities as described in 4(i) would be notes issued to banks evidencing temporary working capital and construction loans.

(3) Canceled bonds and debentures and paid interest coupons pertaining thereto may be destroyed, provided that a certificate of destruction giving full descriptive reference to the documents destroyed shall be made by the person or persons authorized to perform such destruction and shall be retained by the company for the period herein prescribed. The certificate of destruction evidencing the destruction of paid interest coupons pertaining to bonds or debentures need not contain a listing of the bond or debenture serial numbers pertaining to such paid interest coupons. When documents represent debt secured by mortage, the certificate of destruction shall also be authorized by a representative of the trustee(s) acting in conjunction with the person or persons destroying the documents or shall have the trustee(s) acceptance thereon. The certificate of destruction above described may be destroyed 6 years after the payment and discharge of the bonds or debentures or interest coupons described in such certificate.

(4) If a retention period is prescribed elsewhere in the schedule with respect to any document which is included as an exhibit to any filing retained pursuant to the requirements of this item, the company need retain only one copy of such document in its files provided appropriate cross references are established.

(5) Life or mortality study data for depreciation purposes shall be retained for 25 years or for 10 years after plant is retired, whichever is longer.

(Secs. 3, 4, 15, 16, 308; 41 Stat. 1063-1066, 1068, 1072, 1075; 49 Stat. 838-841; 82 Stat. 617 (16 U.S.C. 796, 797, 803 808, 809, 816, 825b, 825g, 826i); secs. 8, 10, 16; 52 Stat. 825, 826, 830 (15 U.S.C. 717g, 717i, 717o))

[Order 450, 37 FR 6293, Mar. 28, 1972, as amended by Order 567, 42 FR 30615, June 16, 1977; Order 258, 47 FR 42724, Sept. 29, 1982; Order 335, 48 FR 44483, Sept. 29, 1983]

§ 125.3 Schedule of records and periods of retention.

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66 Copies of advertisements.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

[See footnotes at end of table]

Description	Retention period
CORPORATE AND GENERAL	
1. [Reserved]	
2. [Reserved]	
3. Reports to stockholders:	
(a) Annual reports or statements to stockholders	Retain until receipt of FERC audit report or years after auditor's exit conference, whic occurs first.
(b) [Reserved]	
4. [Reserved]	
5. [Reserved]	
6. Organizational documents:	
(a) Minute books of stockholders', directors', and directors' committee meetings.	50 years or termination of the corporation's ence, whichever occurs first.
(b) Titles, franchises, and licenses:	
(1) [Reserved]	
(2) [Reserved]	
(3) [Reserved]	
(4) [Reserved]	
(5) Copies of formal orders of regulatory commissions served upon the utility.	6 years after final non-appealable order.
(c) [Reserved]	
(d) [Reserved]	
7. Contracts and agreements (except contracts provided for elsewhere):	
(a) Service contracts, such as for management, accounting and financial services.	6 years after expiration or cancellation § 125.2(j).
(b) Contracts with other utilities for the purchase, sale or interchange of product.	6 years after expiration or cancellation.
(c) [Reserved]	
(d) [Reserved]	
(e) [Reserved]	
(f) [Reserved]	
(g) Memoranda essential to clarifying or explaining provisions of contracts listed above.	For the same periods as contracts to which relate.
(h) Card or book records of contracts, leases, and agreements made, showing dates of expirations and of renewals, memoranda of receipts and payments under such contracts, etc.	Do.
8. Accountants' and auditors' reports:	
(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the utility (such as reports of public accounting firms and regulatory commission accountants).	7 years after date of report or Commission whichever comes last.
(b) Internal audit reports and work papers	Do.
AUTOMATIC DATA PROCESSING	
9. Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule):	
(a) [Reserved]	
(b) Program documentation and revisions thereto	Retain as long as it represents an active program or for periods prescribed for output data, whichever is shorter.
GENERAL ACCOUNTING RECORDS	
10. General and subsidiary ledgers:	
(a)(1) General ledgers	50 years.
(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	Do.
(b)(1) Indexes to general ledgers	Do.
(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	Do.
(c) Trial balance sheets of general and subsidiary ledgers	2 years.
11. Journals: General and subsidiary	50 years.
12. Journal vouchers and journal entries including supporting detail:	
(a) Journal vouchers and journal entries	Do.
(b) Analyses, summarizations, distributions, and other computations which support journal vouchers and journal entries:	
(1) Charging plant accounts	6 years. See § 125.2(j).
(2) Charging all other accounts	6 years.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
(c) [Reserved]	
(d) [Reserved]	
13. Cash books:	
(a) General and subsidiary or auxiliary books	10 years after close of fiscal year. See subsection 12(a).
14. Voucher registers:	
(a) Voucher registers or similar records when used as a source document.	6 years. See § 125.2(j).
15. Vouchers:	
(a) Paid and canceled vouchers (1 copy—analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	Do.
(b) Original bills and invoices for materials, services, etc., paid by vouchers.	Do.
(c) Paid checks and receipts for payments by voucher or otherwise.	6 years.
(d) Authorization for the payment of specific vouchers	6 years. See § 125.2(j).
(e) Lists of unaudited bills (accounts payable), lists of vouchers transmitted and memoranda regarding changes in unaudited bills.	Destroy at option.
(f) Voucher indexes	Do.
16. [Reserved]	
17. [Reserved]	
18. [Reserved]	
19. [Reserved]	
INSURANCE	
20. Insurance records:	
(a) Records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	Destroy at option after expiration of such policies.
(b) [Reserved]	
(c) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses and supporting papers.	6 years. See § 125.2(j).
(d) [Reserved]	
(e) [Reserved]	
(f) [Reserved]	
21. [Reserved]	
OPERATIONS AND MAINTENANCE	
22.1 Production—Electric (less nuclear):	
(a) [Reserved]	
(b) [Reserved]	
(c) Boiler-tube failure report	3 years.
(d) Generation and output logs with supporting data	6 years.
(e) Station and system generation reports and clearance logs:	
(1) Hydro-electric	25 years. See § 125.2(j).
(2) Steam and others	6 years. See § 125.2(j).
(f) Generating high-tension and low-tension load records	3 years.
(g) [Reserved]	
(h) Load curves, temperature logs, coal, and water logs	Do.
(i) Gage-reading reports	2 years, except riverflow data collected in connection with hydro-operation shall be retained for life of corporation.
(j) Recording instrument charts	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained 1 year.
(k) [Reserved]	
22.2 Production—nuclear:	
For informational purposes, refer to the document retention requirements of the Nuclear Regulatory Commission.	
23. Transmission and distribution—Electric: [1]	
(a) Substation and transmission line logs	3 years.
(b) System operator's daily logs and reports of operation	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
(c) [Reserved]	
(d) [Reserved]	
(e) [Reserved]	
(f) [Reserved]	
(g) [Reserved]	
(h) [Reserved]	
(i) [Reserved]	
(j) [Reserved]	
(k) [Reserved]	
(l) [Reserved]	
(m) [Reserved]	
(n) Transformer history records	For life of transformer.
(o) Records of transformer inspections, oil tests, etc	Destroy at option.
(p) [Reserved]	
24. [Reserved]	
25. [Reserved]	
26. Maintenance work orders and job orders:	
(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	6 years.
(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to utility operations.	Do.
(c) Summaries of expenditures on maintenance and job orders and clearances to operating and other accounts (exclusive of plant accounts).	Do.
PERSONNEL	
27. [Reserved]	
28. [Reserved]	
29. [Reserved]	
PLANT AND DEPRECIATION	
30. Plant ledgers:	
(a) Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by classes.	50 years.
(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of utility plant owned.	6 years after plant is retired, provided mortality are retained.[5]
31. Construction work in progress ledgers, work orders, and supplemental records:	
(a) Construction work in progress ledgers	10 years after clearance to the plant account, pro ed continuing plant inventory records are m tained; otherwise 6 years after plant is reti
(b) Work order sheets to which are posted in summary form or in detail the entries for labor, materials, and other charges for utility plant additions and the entries closing the work orders to utility plant in service at completion.	Do.
(c) Authorizations for expenditures for additions to utility plant, including memoranda showing the detailed estimates of cost and the bases therefor (including original and revised or subsequent authorizations).	10 years.
(d) Requisitions and registers of authorizations for utility plant expenditures.	Do.
(e) Completion or performance reports showing comparison between authorized estimates and actual expenditures for utility plant additions.	Do.
(f) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours, etc., in connection with completed construction project.	10 years after clearance to the plant account, pro ed continuing property plant inventory records maintained; otherwise 6 years after plant is reti
(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option.
32. Retirement work in progress ledgers, work orders, and supplemental records:	
(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to utility plant accounts for cost of plant retired.	10 years after plant is retired.[5]

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
(b) Authorizations for retirement of utility plant, including memoranda showing the basis for determination of cost of plant to be retired and estimates of salvage and removal costs	10 years after clearance to the plant account, provided continuing plant inventory records are maintained, otherwise 6 years after plant is retired.[6]
(c) Registers of retirement work orders	10 years.
33. Summary sheets, distribution sheets, reports, statements, and papers directly supporting debits and credits to utility plant accounts not covered by construction or retirement work orders and their supporting records	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.
34. Appraisals and valuations:	
Appraisals and valuations made by the company of its properties or investments or of the properties or investments of any associated companies. (Includes all records essential thereto.)	3 years after disposition, termination of lease, or write-off of property or investment.
35. [Reserved]	
36. The original or reproductions of engineering records, drawings and other supporting data for proposed as-constructed utility facilities:	
(a) Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies and similar records showing the location of proposed or as-constructed facilities:	
(1) If construction of facility results wholly, or in part	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.[5] See § 125.2(j).
(2) [Reserved]	
37. Contracts and other agreements relating to utility records:	
(a) Contracts relating to acquisition or sale of plant	6 years after plant is retired.
(b) Contracts and other agreements relating to services performed in connection with construction of utility plant (including contracts for the construction of plant by others for the utility and for supervision and engineering relating to construction work).	6 years. See § 125.2(j).
38. Records pertaining to reclassifications of utility plant accounts to conform to prescribed systems of accounts, including supporting papers showing the bases for such reclassifications	Do.
39. Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant	25 years.
(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant	Do.[6]
PURCHASES AND STORES	
40. Procurements:	
(a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set forth in Subsection 7 such as, but not limited to: Letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements and the various types of purchase orders:	
(1) For goods or services relating to plant construction	6 years. See § 125.2(j).
(2) For other goods or services	6 years.
(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement	6 years. See § 125.2(j).
(c) [Reserved]	
41. Material ledgers:	
(a) Ledger sheets of materials and supplies received, issued, and on hand	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.
(b) [Reserved]	
42. Materials and supplies received and issued:	
(a) [Reserved]	
(b) [Reserved]	
(c) Records showing the detailed distribution of materials and supplies issued during accounting periods	6 years. See § 125.2(j).
(d) [Reserved]	
(e) [Reserved]	
43. Records of sales of scrap and materials and supplies:	
(a) Authorization for sale of scrap and materials and supplies	3 years.
(b) Contracts for sale of scrap and materials and supplies	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
(c) [Reserved]	
44. [Reserved]	
REVENUE ACCOUNTING AND COLLECTING	
45. Customers' service applications and contracts:	
(a) [Reserved]	
(b) [Reserved]	
(c) [Reserved]	
(d) [Reserved]	
(e) [Reserved]	
(f) [Reserved]	
(g) [Reserved]	
(h) Contracts for extensions of service for which contributions are made by customers or others.	Retain until receipt of FERC audit report or tw years after auditor's exit conference, whichev occurs first.
46. Rate schedules:	
(a) General files of published rate sheets and schedules of utility service. (Including schedules suspended or superseded.)	Retain until receipt of FERC audit report or tw years after auditor's exit conference, whichev occurs first.
(b) [Reserved]	
47. [Reserved]	
48. [Reserved]	
49. Maximum demand, and demand meter record cards	1 year, except where the basic chart information i transferred to another record the charts need on be retained 6 months, provided the record contai ing the basic data is retained 1 year.
50. Miscellaneous billing data:	
(a) Billing department's copies of contracts with customers (in addition to contracts in general files).	Destroy at option.
(b) [Reserved]	
(c) [Reserved]	
(d) [Reserved]	
51. Revenue summaries:	
(a) Summaries of monthly operating revenues according to classes of service for entire utility.	6 years.
(b) Summaries of monthly operating revenues according to classes of service by towns, districts, or divisions. (Including summaries of forfeited discounts and penalties.)	Do.
52. [Reserved]	
53. [Reserved]	
54. [Reserved]	
NOTE: See subsection 59 pertaining to deposits of cash with banks. Subsection 59 applies to all bank accounts wherever general, local, or divisional offices.	
55. [Reserved]	
56. [Reserved]	
TAX	
57. Tax records:	
(a) Copies of returns and schedules filed with taxing authorities, supporting work papers, records of appeals, tax bills and receipts for payment. (See Subsection 15(b) for vouchers evidencing disbursements):	
(1) Income tax returns	7 years after settlement.
(2) Property tax returns	2 years after settlement.
(3) Sales and use taxes	3 years.
(4) Other taxes	2 years after settlement.
(5) Agreements between associate companies as to allocation of consolidated income taxes.	7 years after settlement.
(6) Schedule of allocation of consolidated Federal income taxes among associate companies.	Do.
(b) Summaries of taxes paid	Destroy at option.
(c) Filings with taxing authorities to qualify employee benefit plans.	7 years after settlement of Federal return or discontinuance of plan, whichever is later.
(d) Information returns and reports to taxing authorities	3 years, or for the period of any extensions grante for audit.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
TREASURY	
58. Statements of funds and deposits:	
(a) Summaries and periodic statements of cash balances on hand and with depositories	Destroy at option.
(b) Statement of managers' and agents' cash balances on hand and with depositories	Do.
(c) [Reserved]	
(d) [Reserved]	
(e) [Reserved]	
(f) [Reserved]	
59. Records of deposits with banks and others:	
(a) [Reserved]	
(b) [Reserved]	
(c) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit	Destroy at option after completion of annual audit by independent accountants.
(d) [Reserved]	
(e) [Reserved]	
(f) Check stubs, registers, or other records of checks issued	6 years.
(g) [Reserved]	
60. [Reserved]	
MISCELLANEOUS	
61. Statistics:	
(a) Annual financial, operating and statistical reports regularly prepared in the course of business for internal administrative or operating purposes (and not used as the basis for entries to accounts of the companies concerned) to show the results of operations and the financial condition of the utility	10 years after date of report.
(b) Quarterly, monthly or other periodic financial, operating and other statistical reports as above	2 years after date of report.
(c) [Reserved]	
62. Budgets and other forecasts	3 years.
(Prepared for internal administrative or operating purposes) of estimated future income, receipts and expenditures in connection with financing, construction and operations and acquisitions or disposals of properties or investments by the company and its associate companies, including revisions of such estimates and memoranda showing reasons for revisions; also records showing comparison of actual income and receipts and expenditures with estimates.	
63. [Reserved]	
64. Records of predecessors and former associates	Retain until the records of utility plant acquired have been integrated with the utility's plant records and the original cost of the acquired plant is adequately supported by cost details and until it is ascertained that such records are not necessary to fulfillment of any unsatisfied regulatory requirement, such as: (a) Approval and recording of accounting adjustments resulting from reclassification and original cost studies and acceptance of property acquisition journal entries, (b) cost, depreciation and amortization reserve determinations for licensed projects, (c) establishment of continuing plant inventory records or accounting evidence of the cost of long-lived property in the absence of such continuing plant inventory records.
65. Reports to Federal and State regulatory commissions:	
(a) Annual financial, operating and statistical reports:	
(1) Federal agencies	Retain until receipt of FERC audit report or two years after auditor's exit conference whichever occurs first.
(2) State Commissions	Retain as long as the active tariffs or rates are in effect.
(c) Special or periodic reports on the following subjects:	
(1) Transactions with associated companies	6 years.
(2) Budgets of expenditures	3 years.
(3) [Reserved]	
(4) Employees and wages	5 years.
(5) Loans to officers and employees	3 years after fully paid.

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SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

[See footnotes at end of table]

Description	Retention period
(6) Issues of securities	Data filed with the SEC retain 25 years or until al securities covered are retired, whichever is shorter; other reports retain until securities covered are retired.
(7) Purchases and sales, utility properties	Ten years after the plant is retired. See § 125.2(j).
(8) Plant changes—units added and retired	Do.
(9) [Reserved]	
(d) Cost of service reports filed under section 133 of the Public Utility Regulatory Policies Act (PURPA). (See 18 CFR Part 290.)	5 years.
66. Other miscellaneous records:	
(a) Copies of advertisements by the company in behalf of itself or any associate company in newspapers, magazines and other publications including records thereof (excluding advertising of product, appliances, employment opportunities, services, territory, routine notices and invitations for bids for securities, all of which may be destroyed at option).	6 years.
(b) [Reserved]	

Footnotes:

[1-4] [Reserved]

[5] See § 125.2, *General instructions* (n)—Schedule of Notes (5).

[Order 450, 37 FR 6293, Mar. 28, 1972, as amended by Order 258, 47 FR 42725, Sept. 29, 1982; 48 FR 44483, Sept. 29, 1983]

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

PART 131—FORMS

Sec.
131.20 Application for approval of transfer of license.
131.31 Format No. FERC 561. Annual report of interlocking positions.
131.43 Report of securities issued.
131.50 Certificate of notification.
131.51 Notice of succession in ownership or operation.
131.52 Certificate of concurrence.
131.53 Notice of cancellation.
131.60 Verification of application.
131.70 Form of application by State and municipal licensees for exemption from payment of annual charges.

AUTHORITY: Secs. 301, 308, 309, 49 Stat. 854, 858; 16 U.S.C. 825, 825g, 825h, 797, unless otherwise noted.

§ 131.20 Application for approval of transfer of license.

(See §§ 9.1 through 9.10 of this chapter.)

(This application and all accompanying documents shall be submitted in quadruplicate, together with one additional copy for each interested State commission)

BEFORE THE FEDERAL POWER COMMISSION

APPLICATION FOR APPROVAL OF TRANSFER OF LICENSE

(1) ——————————, licensee under the license for Project No. ———, issued by the Commission on ——————————(Month, day, year) and

(2) ——————————, (hereinafter referred to as the Transferee).

(3) Hereby jointly and severally apply for the written approval by the Federal Power Commission of the transfer of the aforesaid license from the transferor to the transferee and request that the instrument of such approval by the Commission be made effective as of the date of conveyance of the project properties; and in support thereof show the Commission as follows:

(4) The said transferee is:

(a)[1] A citizen of the United States, whereof proof is submitted herewith as Exhibit A, which is hereby incorporated herein and made a part hereof;

(b)[1] An association of citizens under articles of association, a certified copy of which as now in effect is attached hereto as exhibit A and hereby incorporated herein and made a part hereof;

(c)[1] A municipality organized under the following statutes: ——————————, proof of such organization being submitted herewith as Exhibits A-1, A-2, etc., which is [are] hereby incorporated herein and made a part hereof;

(d)[1] A ——————————(e.g., private, nonprofit, etc.) corporation, organized under the laws of the State of ——————————, and domesticated in the States of ——————————, ——————————; certified copies of its charter or certificate or incorporation, articles of incorporation, corporate by-laws, and certificates of authority to do business, with all amendments of each to date, being submitted herewith as exhibits A-1, A-2, etc., said exhibits being hereby incorporated herein and made a part hereof;

(5) The transferee submits as [partial] evidence of its compliance with all applicable State laws as required by section 9(b) of the Federal Power Act ——————————

——————————

submitted herewith as exhibits B-1, B-2, etc., and proposes to complete its showing of such compliance by submitting ——————————

---

[1] In par. 4 include only the subparagraph which is applicable.

[2] This form for application contemplates the filing of the application and Commission action thereon prior to any conveyance of the project properties. If the Commission acts favorably upon the application, it will issue to the applicants an order approving the transfer of the license. Applicants may then consummate the conveyance of the project properties and transferee shall submit to the Commission certified copies of the instruments of such conveyance (see par. 6 of this form). The transferor shall at the same time make payment of annual charges to the date of the conveyance (see par. 6 of this form). The transferor shall at the same time make payment of annual charges to the date of the conveyance (see par. 8 of this form). The transferee shall at the same time submit to the Commission final proofs showing its compliance with state laws. See par. 5 of this form. The transferor shall at the same time turn over to the transferee all license instruments and all maps, plans, specifications, contracts, reports of engineers, accounts, books, records, and all other papers and documents, relating to the original project and to all additions thereto and betterments thereof.

——————————————

to be submitted as exhibits B-3, B-4, etc., at the time it submits proof of the conveyance to it of the project properties as hereinafter provided for;[5]

(6) The transferee will submit certified copies of all instruments of conveyance whereby title to the project properties is conveyed to it, upon the completion of such conveyance, if and when the Commission shall have given its approval to the proposed transfer;

(7) If and when the Commission shall have given its approval to the proposed transfer, and upon completion of conveyance of the project properties to the transferee, the transferor will deliver to the transferee and the transferee will accept and permanently retain all license instruments and all maps, plans, specifications, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating to the original project and to all additions thereto and betterments thereof;

(8) The transferor certifies that it has fully complied with the terms and conditions of its license, as amended, and that it has fully satisfied and discharged all of its liabilities and obligations thereunder to the date hereof, and obligates itself to pay all annual charges accrued under the license to the date of transfer;

(9) Contingent upon the final written approval by the Commission of the transfer of the license, the transferee accepts all the terms and conditions of the said license [as amended] and the act, and agrees to be bound thereby to the same extent as though it were the original licensee thereunder;

(10) The name, title, and post-office address of the person or persons to whom correspondence in regard to this application shall be addressed are as follows:

——————————————

——————————————

In witness whereof the transferor has caused its name to be hereunto signed by ———————— (Name), its ———————— (Title—chief executive officer), and its corporate seal to be hereunto affixed by ———————— (Name), its ———————— (Title—custodian of seal), thereunto duly authorized, this ———— day of ————, 19—; and the transferee has caused its name to be hereunto signed by ———————— (Name), its ———————— (Title—chief executive officer), and its corporate seal to be hereunto affixed by ———————— (Name), its ———————— (Title—custodian of seal), thereunto duly authorized this ———— day of ————, 19—.[6]

——————————————
(Exact name of transferor)

By ——————————————
(Name)

——————————————
(Title)

(Exact name of transferee)

By ——————————————

——————————————
(Name)

——————————————
(Title)

Attest:

——————————————
(Secretary)

VERIFICATION[7]

State of ——————————————

County of ————, ss:

———————— being duly sworn deposes and says: That he is the ————

——————————————

(Title of person signing the application) of the ———————— (Name of one of applicants), one of the applicants for approval of transfer of license; that he has read the foregoing application and knows the contents thereof; and that the same are true to the best of his knowledge and belief.

——————————————
(Signature)

Subscribed and sworn to before me, a notary public of the State of ———— this ———— day of ————, 19—.

——————————————

EXHIBIT A

PROOF OF CITIZENSHIP[8]

State of ——————————————

---

[5] See footnote 5 on preceding page.

[6] If applicant is a natural citizen modify final paragraph.

[7] To be separately executed by each of the persons signing the foregoing application.

[8] If the applicant is a natural person or an association of citizens, proof of citizenship is required. Such proof may be made by affidavit in the form indicated.

County of ————————, ss:

————————, ——, ————————and ————————, being duly sworn, each for himself, deposes and says that he is a citizen of the United States of America.

____

____

____

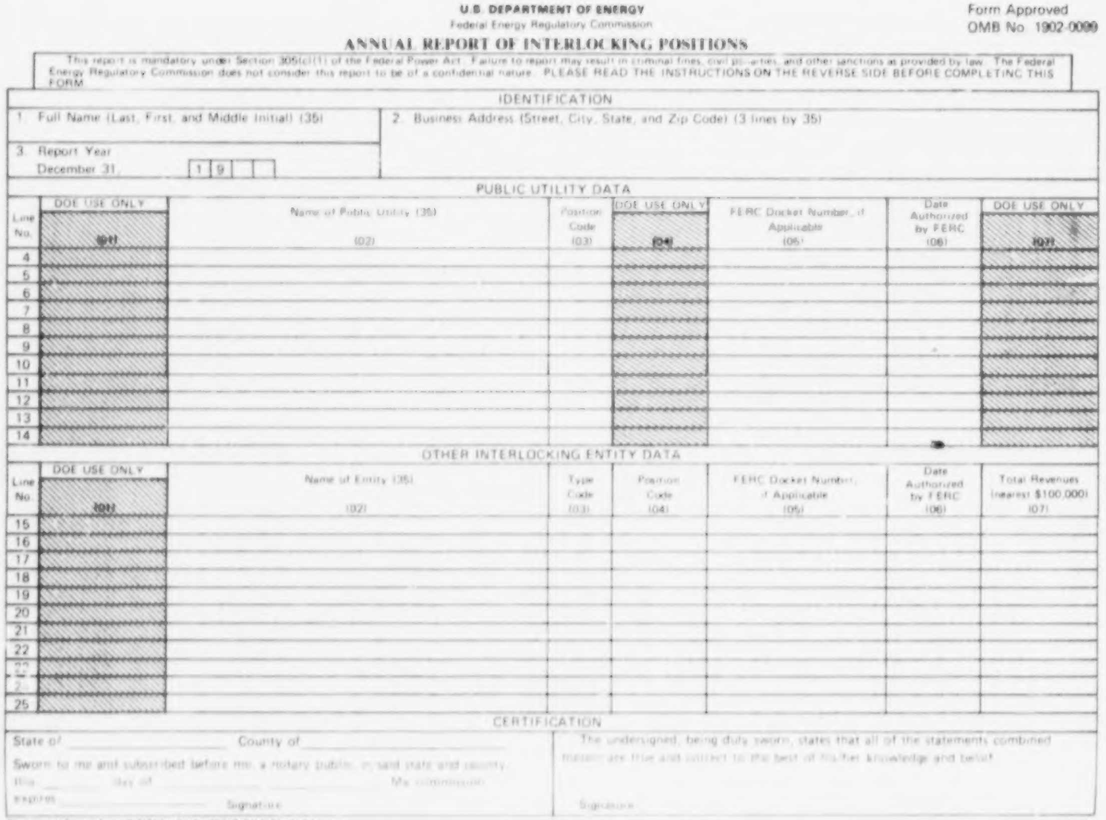
Subscribed and sworn to before me, a notary public of the State of ———————— this ———————— day of ————————, 19——.

____

[Order 141, 12 FR 8588, Dec. 19, 1947, as amended by Order 175, 19 FR 5218, Aug. 18, 1954]

§ 131.31 Format No. FERC 561, Annual report of interlocking positions.

(See § 46.4 of this chapter.)



U.S. DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Form Approved
OMB No 1902-0099

ANNUAL REPORT OF INTERLOCKING POSITIONS

This report is mandatory under Section 305(c)(1) of the Federal Power Act. Failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law. The Federal Energy Regulatory Commission does not consider this report to be of a confidential nature. PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE BEFORE COMPLETINC THIS FORM

IDENTIFICATION

1. Full Name (Last, First, and Middle Initial) (35)	2. Business Address (Street, City, State, and Zip Code) (3 lines by 35)
3. Report Year December 31, 1 9 ☐☐	

PUBLIC UTILITY DATA

Line No.	DOE USE ONLY (01)	Name of Public Utility (35) (02)	Position Code (03)	DOE USE ONLY (04)	FERC Docket Number, if Applicable (05)	Date Authorized by FERC (06)	DOE USE ONLY (07)
4	▨			▨			▨
5	▨			▨			▨
6	▨			▨			▨
7	▨			▨			▨
8	▨			▨			▨
9	▨			▨			▨
10	▨			▨			▨
11	▨			▨			▨
12	▨			▨			▨
13	▨			▨			▨
14	▨			▨			▨

OTHER INTERLOCKING ENTITY DATA

Line No.	DOE USE ONLY (01)	Name of Entity (35) (02)	Type Code (03)	Position Code (04)	FERC Docket Number, if Applicable (05)	Date Authorized by FERC (06)	Total Revenues (nearest $100,000) (07)
15	▨						
16	▨						
17	▨						
18	▨						
19	▨						
20	▨						
21	▨						
22	▨						
23	▨						
24	▨						
25	▨						

CERTIFICATION

State of ______________ County of ______________

Sworn to me and subscribed before me, a notary public, in said state and county, this ______ day of ______________ ______________ My commission expires ______________ Signature

The undersigned, being duly sworn, states that all of the statements combined herein are true and correct to the best of his/her knowledge and belief.

Signature

Format Number FERC 561 (REVISED 3-81)

INSTRUCTIONS FOR COMPLETING ANNUAL REPORT OF INTERLOCKING POSITIONS

GENERAL INFORMATION

Purpose of Report

The data collected by this report will be used by the Federal Energy Regulatory Commission's staff for review and oversight purposes.

Who Must Submit

This report must be completed by all persons holding interlocking positions between public utilities and certain other entities (described in the specific instructions) during any portion of the calendar year.

When to Submit

Submit this report on or before April 30 of each year for the preceding calendar year. (For example, the report for the year 1980 would be filed on or before April 30, 1981.)

What and Where to Submit

Submit an original and two (2) copies of this report to:

Federal Energy Regulatory Commission
Office of the Secretary
Room 3110
Attention: FERC 561
825 North Capitol Street, N.E.
Washington, D.C. 20426

Sanctions

This report is prescribed by Section 305(c)(1) of the Federal Power Act and 18 CFR 46.4. Failure to report may result in certain penalties and other sanctions as provided by law.

GENERAL INSTRUCTIONS

1. Prepare this report in conformity with the requirements prescribed in 18 CFR 46.4.
2. Leave blank any columns that are not applicable.

SPECIFIC INSTRUCTIONS

Item	Instruction
1 and 2	Enter your full name and business address.
3	Enter the last two digits of the calendar year for which this report is filed.
4 thru 14 Col (02) and (03)	Enter in Column (02) the name of each public utility in which you hold an executive position. In Column (03), enter the appropriate code for each such position, according to the list below:

Code	Name
DIR	Director
CEO	Chief Executive Officer
PRES	President
VP	Vice President
SEC	Secretary
TREA	Treasurer
GM	General Manager
COMP	Comptroller
PURA	Chief Purchasing Agent
OEP	Other Executive Position

Item	Instruction
4 thru 14 Col (05) and (06)	If you are authorized by the Commission to hold the position of officer or director in accordance with Part 45 of the Commission's regulations, enter in Column (05) the complete FERC docket number of such authorization. In Column (06), enter the date of such authorization. Otherwise, leave these columns blank.
15 thru 25 Col (02) and (03)	Enter in Column (02) the name of each entity in which you hold an interlocking position. In Column (03), enter the appropriate code type for each entity, using the list below:

Code	Name
FIN	Investment bank; bank holding company; foreign bank or subsidiary thereof doing business in the United States; other organization primarily engaged in the business of providing financial services or credit; mutual savings bank; or savings and loan association
FINI	Insurance company
SECU	Entity authorized by law to underwrite or participate in the marketing of securities of a public utility
ELEQ	Entity which produces/supplies electric equipment for the use of any public utility
FUEL	Entity which produces/supplies coal, natural gas, nuclear fuel, or other fuel for the use of any public utility
20CL	Entity specified in 18 CFR 46.3 (one of the 20 largest purchasers of electric energy from a utility)
CNEN	Entity which is controlled by any one of the above named entities
305B	Entity referred to in Section 305(b) of the Federal Power Act (not otherwise identified above)

Item	Instruction
15 thru 25 Col (04)	Enter the appropriate code for each executive position you hold in the entity named in Column (02), using the list below:

Code	Name
DIR	Director
CEO	Chief Executive Officer
PRES	President
VP	Vice President
SEC	Secretary
TREA	Treasurer
GM	General Manager
COMP	Comptroller
PURA	Chief Purchasing Agent
PART	Partner
APPT	Appointee
REP	Representative
OEP	Other Executive Position

Item	Instruction
15 thru 25 Col (05) and (06)	If you are authorized by the Commission to hold the position of officer or director in accordance with Part 45 of the Commission's regulations, enter in Column (05) the complete FERC docket number of such authorization. In Column (06), enter the date of such authorization. Otherwise, leave these columns blank.
15 thru 25 Col (07)	For each entity that supplies electric equipment (ELEQ) named in Items 15 thru 25, Column (02), enter the aggregate amount of revenues from producing or supplying electrical equipment to any public utility named in Items 4 thru 14, Column (02) in the subject calendar year, rounded to the nearest $100,000. Otherwise, leave this column blank.
Certification	The original of this report must be dated, signed and verified under oath in accordance with 18 CFR 131.60. Each copy must bear the date that appeared on the original. The signature may be stamped or typed on the copy, and the notarial seal may be omitted. Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

[Order 140, 46 FR 22181, Apr. 16, 1981; 46 FR 23048, Apr. 23, 1981; 46 FR 25084, May 5, 1981]

§ 131.43 Report of securities issued.

(See § 34.10 of this chapter.)

(Submit an original and four copies.)

[Name of respondent]

REPORT OF SECURITIES ISSUED

Description of security..........

Description	Amount
1. Face value or principal amount..........	
2. Plus premium or less discount..........	
3. Gross proceeds..........	
4. Underwriter's spread or commission..........	
5. Securities and Exchange Commission registration fee..........	
6. State mortgage registration tax..........	
7. State commission fee..........	
8. Fee for recording indenture..........	
9. United States document tax..........	
10. Printing and engraving expenses..........	
11. Trustee's charges..........	
12. Counsel fees..........	
13. Accountant's fees..........	
14. Cost of listing..........	
15. Miscellaneous expenses of issue (Describe large items)..........	
16. Total deductions..........	
17. Net amount realized..........	

[Order 141, 12 FR 8591, Dec. 19, 1947, as amended by Order 182, 46 FR 50517, Oct. 14, 1981]

§ 131.50 Certificate of notification.

(See § 34.1(c)(2) of this chapter. If the aggregate amount of the issuance reported herein, together with all other outstanding notes and drafts with a maturity of 1 year or less is in excess of 5 percent of the par value of the outstanding securities at the date of the issuance in accordance with §34.1(c)(2) of this chapter, the respondent shall file an application pursuant to Part 34 of this chapter.)

(Submit an original and four copies.)

[Name of Public Utility]

[Address of Public Utility]

This is to certify that the following are the facts relating to an issuance entered into by the above-named public utility to which the provisions of section 204(e) of the Federal Power Act are applicable:

(1) Date of issuance, renewal, or assumption.

(2) Description of the terms of the note or draft including the amount, payee, interest rate and maturity date.

(3) Aggregate amount of such note or draft, and all other outstanding notes and drafts of a maturity of 1 year or less on which the public utility is primarily or secondarily liable at the date of this issuance.

(4) Total par value (or, in the case of securities having no par value, the fair market value as of the date of this issuance) of all other securities outstanding at the date of this issuance.

(5) Full details on how fair market value of securities having no par value was calculated at the date of this issuance of securities.

(6) Date of State authorization and docket number, if applicable.

[Corporate Seal]

(Name and title of person who signs this certificate) ————————

Subscribed and sworn to before me this ——— day of ———, 19—.

(Notary public) ————————

Only original need be verified.

[Order 182, 46 FR 50517, Oct. 14, 1981]

§ 131.51 Notice of succession in ownership or operation.

(See §§ 35.1 through 35.21 of this chapter.)

(An original and one conformed copy to be submitted)

The ————————

(Exact name of new owner, receiver, or trustee)

————————

(Address)

on this ——— day of ————, 19——, hereby adopts, ratifies, and makes his own, or its own, in every respect all applicable rate schedules, and supplements thereto, listed below, heretofore filed with the Federal Power Commission by ————————

(Exact name of predecessor)

effective ————————

(Effective date of change in ownership or operation)

————————

(List all Rate Schedule F.P.C. numbers adopted)

————————

(Exact name of successor)

By ————————

————————

(Title)

[Order 141, 12 FR 8591, Dec. 19, 1947, as amended by Order 271, 28 FR 11404, Oct. 24, 1963]

§ 131.52 Certificate of concurrence.

(See §§ 35.1 through 35.21 of this chapter.)

(An original and one conformed copy to be submitted)

This is to certify that ——————————

(Name of public utility concurring)

assents to and concurs in the rate schedule (rate schedule supplement) described below, which the —————————— (Name of public utility filing rate schedule) has filed, and hereby files this certificate of concurrence in lieu of the filing of the rate schedule (rate schedule supplement) specified.

(Here give exact description of rate schedule or supplement, including F.P.C. number)

——————————

(Name of public utility)

By ——————————

——————————

(Title)

Dated ——————————— 19——.

[Order 141, 12 FR 8591, Dec. 19, 1947, as amended by Order 271, 28 FR 11404, Oct. 24, 1963]

§ 131.53 Notice of cancellation.

(See §§ 35.1 through 35.21 of this chapter.)

[An original and one conformed copy to be submitted]

Notice is hereby given that effective the —— day of ———— 19——, Rate Schedule F.P.C. No. ——, effective date ———— and filed with the Federal Power Commission by ——————————

(Name of public utility filing rate schedule) is to be cancelled.

Notice of the proposed cancellation has been served upon the following:

——————————

——————————

——————————

——————————

(Name of public utility)

By ——————————

——————————

(Title)

Dated ——————————, 19——.

[Order 141, 12 FR 8591, Dec. 19, 1947, as amended by Order 271, 28 FR 11404, Oct. 24, 1963]

§ 131.60 Verification of application.

(See §§ 45.1 through 45.8 of this chapter.)

State of ——————

County of ——————, ss:

The undersigned, being first duly sworn, states that he is the applicant in the foregoing application (or supplemental application); that he has read said application (or supplemental application) and knows the contents thereof; and that all of the statements contained therein are true and correct to the best of his knowledge and belief.

——————————

(Applicant)

Sworn to and subscribed before me, a notary public, in and for said county and State, this —— day of ————, 19——.

——————————

(Notary public)

My commission expires ——————

[SEAL]

[Order 141, 12 FR 8591, Dec. 19, 1947]

§ 131.70 Form[12] of application by State and municipal licensees for exemption from payment of annual charges.

(See § 11.24 of this chapter.) Application by State and municipal licensees for exemption from payment of annual charges must be prepared on this form. The form specifies that in filing application for exemption, the following data and schedules shall be submitted:

1. Name and address of correspondent;
2. Basis for claimed exemption;
3. Generating plants owned or operated by licensee;
4. Transmission lines and distribution lines;
5. KWH of power generated, purchased and interchanged;
6. Power sold or otherwise disposed of (kwh);
7. Power interchange (in detail);
8. Statement of unusual conditions attending the disposition of electric power;
9. Book cost of electric property;
10. Operating revenues;
11. Operating expenses and other deductions from revenues;
12. Affidavit.

[Order 143, 13 FR 6682, Nov. 13, 1948]

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[12] Copies of this form may be obtained upon request from the Federal Energy Regulatory Commission.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Sec.

141.1 FERC Form No. 1, Annual report of Major electric utilities, licensees and others.
141.2 FERC Form No. 1-F, Annual report for Nonmajor public utilities and licensees.
141.14 Form No. 80, Licensed Hydropower Development Recreation Report.
141.51 Form No. EIA-714, Annual Electric Power System Report.
141.59 Form No. EIA-767, Steam-Electric Plant Operation and Design Report.
141.61 FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants.
141.100 General requirements for annual reports to stockholders and others.
141.200 Original cost statement of utility property.

AUTHORITY: Department of Energy Organization Act, 42 U.S.C. 7102-7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 791a-828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982), unless otherwise noted.

§ 141.1 FERC Form No. 1, Annual report of Major electric utilities, licensees and others.

(a) *Prescription.* The Form of Annual Report for Major electric utilities, licensees and others, designated herein as FERC Form No. 1, is prescribed for the reporting year 1981 and each year thereafter.

(b) *Filing requirements*—(1) *Who must file*—(i) *Generally.* Each Major electric utility (as defined in Part 101 of Subchapter C of this chapter) and other entity, *i.e.*, each corporation, person, or licensee as defined in section 3 of the Federal Power Act (16 U.S.C. 792 *et seq.*), including any agency, authority or other legal entity or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, however produced, throughout the United States and its possessions, having sales or transmission service equal to Major as defined above, whether or not the jurisdiction of the Commission is otherwise involved, shall prepare and file with the Commission an original and conformed copies of the FERC Form No. 1 pursuant to the General Instructions set out in that form.

(ii) *Exceptions.* This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; (*i.e.*, a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power).

(2) *When to file.* This report shall be filed on or before April 30 of each year for the previous calendar year, beginning April 30, 1982 for the 1981 calendar year.

[Order 200, 47 FR 1280, Jan. 12, 1982, as amended by Order 390, 49 FR 32515, Aug. 14, 1984]

§ 141.2 FERC Form No. 1-F, Annual report for Nonmajor public utilities and licensees.

(a) *Prescription.* The form of Annual Report for Nonmajor Public Utilities and Licensees, designated herein as FERC Form No. 1-F, is prescribed for the year 1980 and each year thereafter.

(b) *Filing requirements*—(1) *Who must file*—(i) *Generally.* Each public utility and licensee as defined by the Federal Power Act, which is considered Nonmajor as defined in Part 101 of this chapter, shall prepare and file with the Commission an original and conformed copies of FERC Form No. 1-F pursuant to the General Instructions set out in that form.

(ii) *Exceptions.* FERC Form No. 1-F is not prescribed for any municipality as defined in Section 3 of the Federal Power Act, i.e., a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

(2) *When to file.* Such report shall be filed on or before March 31 of each year for the previous calendar year, beginning with a filing by March 31, 1981 for the 1980 calendar year.

[Order 101, 45 FR 60899, Sept. 15, 1980, as amended by Order 390, 49 FR 32515, Aug. 14, 1984; 50 FR 5744, Feb. 12, 1985]

§ 141.14 Form No. 80, Licensed Hydropower Development Recreation Report.

The form of the report, Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80, for use by licensees in reporting information with respect to existing and potential recreational use at developments within projects under major and minor license, is approved and prescribed for use as provided in § 8.11 of this chapter.

[46 FR 50059, Oct. 9, 1981]

§ 141.51 Form No. EIA-714, Annual Electric Power System Report.

(a) *Who must file.* Any electric utility, as defined under section 3(4) of the Public Utility Regulatory Policies Act, 16 U.S.C. 2602 (1982), must complete and file with the Energy Information Administration Form No. EIA-714, Annual Electric Power System Report, for every system that:

(1) Generates all or part of its load requirements;

(2) Owns and/or operates operable generating capacity of more than 25 megawatts (MW); and

(3) Has net system and firm sales for resale in excess of 100,000 megawatthours (MWh) for the reporting year.

(b) *When to file*—(1) *General.* Form No. EIA-714 must be filed on or before each May 1 for the preceding calendar year, beginning with data covering calendar year 1985, which must be filed on or before May 1, 1986.

(2) *1982-1984 data.* Data covering 1982 are due July 15, 1985. Data covering 1983 are due August 15, 1985. Data covering 1984 are due September 15, 1985.

(c) *What to file.* An original and three conformed copies of the Form No. EIA-714 must be filed, in accordance with the instruction in that form.

[Order 418, 50 FR 19917, May 13, 1985]

§ 141.59 Form No. EIA-767, Steam-Electric Plant Operation and Design Report.

(a) *Requirement to file.* Every electric utility described in paragraph (b) of this section must file form EIA-767, "Steam-Electric Plant Operation and Design Report," in conformance with this section on or before May 1st of each year for the previous calendar year.

(b) *Who must file.* Every electric utility company having plants that either presently have, or are projected to have, a steam-electric capacity of 100 megawatts or greater must prepare and file for each such plant an original and conformed copies of EIA-767 pursuant to the General Instructions set out in that form.

[Order 458, 51 FR 44283, Dec. 9, 1986]

§ 141.61 FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants.

Every electric power producer having electric generating plants with a rated steam-electric generating capacity of 50 megawatts or greater during the reporting month must file with the Commission for each such plant an original and conformed copies of FERC Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants" pursuant to the General Instructions set out in that form. Form No. 423 must be filed on or before the 45th day after the end of each reporting month, beginning with the reporting period of January, 1983.

[Order 264, 47 FR 44726, Oct. 12, 1982]

§ 141.100 General requirements for annual reports to stockholders and others.

All annual reports to stockholders and others shall include an appropriate summary of the investment tax credits generated and utilized and a statement of the accounting method elected by the company in connection with the utilization of the credits.

[Order 290, 29 FR 18215, Dec. 23, 1964]

§ 141.200 Original cost statement of utility property.

Any public utility or licensee becoming subject to the jurisdiction of the Commission shall file, insofar as applicable, the following statements properly sworn to by the officer in responsible charge of their compilation:

Statement A

Statement A showing in outline the origin and development of the company including particularly a description (giving names of parties and dates) of each consolidation and merger to which the company, or a predecessor, was a party and each acquisition of an electric operating unit or system.

Statement B

Statement B showing for each acquisition by the reporting company or any of its predecessors of an electric operating unit or system, the original cost, estimated, if not known, the cost of such company and the amount entered in the books in respect thereto as of the date of acquisition. If the depreciation, retirement, or amortization reserve was adjusted as of the date of acquisition and in connection therewith, a full disclosure of the pertinent facts should be made. The difference between the original cost and the amount entered in respect thereto of each acquisition of an electric operating unit or system, as of the date of acquisition, should be clearly stated, and a summary of all transactions affecting such difference through the end of the calendar year prior to the year in which the filing is made, and the resultant amount at the latter date, should be set forth. The amount to be included in account 114, Electric Plant Acquisition Adjustments, shall be subdivided so as to show the amounts applicable to (1) electric plant in service, (2) electric plant leased to others, and (3) electric plant held for future use. Whenever practical, such amount shall be classified according to nature, i.e., going value, structural value, etc.

Where estimates are used in arriving at original cost or the amount to be included in account 114, a full disclosure of the method and underlying facts should be given. The method of determining the original cost of the electric plant acquired as operating units or systems should be described in sufficient detail to permit a clear understanding of the nature of the investigations which were made for that purpose.

Statement C

Statement C showing any amounts arrived at by appraisals in the electric plant accounts (and not eliminated) in lieu of cost to the reporting company. This statement should give the full journal entry at the time the appraisal was originally recorded and if the entry had the effect of appreciating or writing up the electric plant account, the amount of the appreciation of writeup should be traced, by proper description and explanation of changes, from the date recorded through the end of the calendar year prior to the year in which the filing is made.

Statement D

Statement D showing electric plant a
classified in the books of account immed
ately prior to reclassification in accordanc
with the Uniform System of Accounts, ir
cluding, under a descriptive heading, an
unclassified amounts applicable jointly t
the electric department and other depart
ments of the utility.

Statement E

Statement E showing summary of adjust
ments necessary to state accounts 101, 103
107, 114, and 116, as prescribed in the Un
form System of Accounts.

Statement F

Statement F showing electric plant class
fied according to the accounts prescribed i
the Uniform System of Accounts, and show
ing also the amount includible in accour
116, Other Electric Plant Adjustments.

Statement G

Statement G giving a comparative balanc
sheet showing the accounts and amount
appearing in the books before the adjustin
entries have been made and after such er
tries shall have been made.

Statement H

Statement H giving a suggested plan fo
depreciating, amortizing, or otherwise di
posing in whole or in part of the amount
includible in account 114, Electric Plant A
quisition Adjustments, and account 11
Other Electric Plant Adjustments.

Statement I

Statement I giving the following statist
cal information relative to electric plant.

Production Plant

Steam production. Separately for eac
steam plant: Name of plant, date of cor
struction, nameplate generating capacit
(kw.) as originally constructed and as a
present, also nameplate capacity and date o
installation of each addition to generatin
capacity. The original cost, where availabl
by accounts 310 and 316, of each steam pr
duction plant.

Hydraulic production. Separately for eac
hydroplant: Name of plant, date of cor
struction, capacity of reservoirs (acre-feet
nameplate generating capacity (kw.) a
originally constructed and as at presen
also nameplate capacity and date of installa
tion of each addition to generating capacit
The original cost, where available, by ac
counts 330 and 336, of each hydraulic pr
duction plant.

Internal combustion engine productio
For each internal combustion engine plan

Name of plant, date of construction, nameplate generating capacity (kw.) as originally constructed and as at present, also nameplate capacity and date of installation of each addition to generating capacity. The original cost, where available, by accounts 340 to 346, of each internal combustion engine production plant.

TRANSMISSION PLANT

Overhead transmission lines. For each overhead transmission line or for each group of transmission lines of the same voltage, same general type of construction, and same number of circuits per structure; the voltage, length in miles, type of construction, kind and size of conductor. The original cost, where available, by accounts 350, 352, 354, 355, 356, and 359, of each such line or group of lines.

Underground transmission lines. For each underground transmission line or for each group of transmission lines of the same voltage, same general type of construction and same number of circuits per structure: The voltage length in miles and type of construction. The original cost, where available, by accounts 350, 352, 357, 358, and 359, of each such line or group of lines.

Transmission substations. For each substation: Function, capacity (kva), high and low voltages of transformers, description and capacity of special items of equipment.

DISTRIBUTION PLANT

Overhead system.[1] Number of pole and circuit miles, number of active meters or services connected (if available), description and number of each type of pole or tower.

Underground system.[2] Number of circuit miles, number of active meters or services connected (if available), description of type of construction and general statement of any special construction problem.

Distribution substation. General description of number, capacity (kva) and high and low voltages of transformers.

Line transformers. Number and capacity.

Street lighting and signal systems. Description and number of each type of street lighting standard, number and wattage of lamps, and description of signal system.

GENERAL PLANT

Description of principal structures and improvements.

Number and type of transportation vehicles and appurtenant equipment.

Description of store, shop, and laboratory equipment.

Description of communication equipment.

Description of miscellaneous equipment.

[38 FR 7214, Mar. 19, 1973]

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[1] If number of active meters or services is not available separately for overhead and underground systems, report totals.

[2] To be shown on the original when tendered for filing with the Commission of every paper as specified in § 1.17(f) of this chapter.

FINDING AIDS

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Redesignation Table

Effective June 10, 1985, by Order 413, published at 50 FR 11676, Mar. 25, 1985, the Federal Energy Regulatory Commission clarified and revised many of its regulations governing hydroelectric applications which are set forth in 18 CFR Part 4. Secondly, it amended Part 4 to incorporate Commission decisions into the regulations. Third, it reorganized several sections of Part 4 to integrate the regulations governing exemption applications into Subpart D.

Set out below, the derivation table indicates how the new regulations are derived from the old; the distribution table shows where the old provisions are located in the new regulations.

DERIVATION TABLE

New section	Old section
§ 4.30:	
(a)	N/A.
(b)(1)	§ 4.33(a) amended.
(b)(2)	§ 4.91(a).
(b)(3)	§ 4.91(b).
(b)(4)(i)	§ 4.50(b)(1).
(b)(4)(ii)	§ 4.91(c).
(b)(4)(iii)	§ 4.102(a).
(b)(5)	N/A.
(b)(6)(i)	§ 4.50(b)(2).
(b)(6)(ii)	§ 4.102(b).
(b)(7)	§ 4.50(b)(3).
(b)(8)	§ 4.102(d).
(b)(9)	§§ 4.91(d) and 4.102(c).
(b)(10)	§ 4.33(a).
(b)(11)	§ 4.40(b)(1). §§ 4.50(b)(4) and 4.60(b)(1).
(b)(12)	§ 4.102(m).
(b)(13)	§ 4.102(g).
(b)(14)	§ 4.40(b)(3).
(b)(15)	§ 4.40(b)(2).
(b)(16)	§ 4.50(b)(5).
(b)(17)	§ 4.60(b)(3).
(b)(18)	§ 4.50(b)(6).
(b)(19)	§§ 4.40(b)(4), 4.50(b)(7) and 4.60(b)(2).
(b)(20)(i)	§ 4.91(e).
(b)(20)(ii)	§ 4.102(e).
(b)(21)	§ 4.102(i).
(b)(22)	§ 4.102(h).
(b)(23)	§ 4.102(j).
(b)(24)	§ 4.102(k).
(b)(25)	§ 4.102(f).
(b)(26)	§ 4.91(f).
(b)(27)	§ 4.102(1).
§ 4.31:	
(a)	§ 4.33(a).
(b))	§ 4.92(a).
(c)	§ 4.103(b).
§ 4.32:	
(a)(1)	§ 4.30(d).
(a)(2)	N/A.
(a)(3)	N/A.
(a)(4)	§ 4.31(a)(2).
(b)(1)	§ 4.31(b).
(b)(2)	§§ 4.92(b)(2) and 4.107(a)(2).
(c)(1)	§ 4.31(c)(1).
(c)(2)(i)	§ 4.31(c)(2).
(c)(2)(ii)	§§ 4.93(a)(1) and 4.105(b)(1).
(c)(3)	§ 4.31(c)(3).
(d)(1)	§§ 4.31(d)(1), 4.93(a)(1) and 4.105(b)(1).
(d)(2)	§ 4.31(d)(2).
(e)	§ 4.31(e).
(f)	§ 4.31(f).
(g)	§ 4.31(g).
(h)	§ 4.31(h).
(i)	N/A.
§ 4.33:	
(a)	§ 4.30(b).
(b)	§ 4.30(c).
(c)	§ 4.104(c).
(d)	§ 4.104(a).
(e)	§ 4.104(b).
(f)	N/A.
§ 4.36:	
(a)	§ 4.33(a).
(b)	§§ 4.33(a), and 4.104(c)(2)(iii) and (iv).
(c)	
§ 4.33(d)	
§ 4.37:	
(a)	§ 4.33(f).
(b)	§ 4.33(g).
(c)	§ 4.33(h).
(d)	§ 4.104(e).
(e)	§ 4.33(i).
§ 4.38	N/A.
§ 4.39	§ 4.32.

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(b)	§ 4.33(a).

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(d)	§ 4.32(a).
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(b)	§ 4.32(b).
(c)	§ 4.32(c).
(d)	§ 4.32(d).
(e)	§ 4.32(e).
(f)	§ 4.32(f).
(g)	§ 4.32(g).
(h)	§ 4.32(h).
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(g)	§ 4.37(b).
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(c)	§ 4.40(b).
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(b)	§ 4.30(b).
(c)	§ 4.50(b).
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(b)	§ 4.30(b).
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§ 4.81	§ 4.81.
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(b)	§ 4.432(b)(2).
(c)(1)-(c)(6)	§ 4.492(a)-(f).
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(b)	§ 4.34.
(c)	§ 4.93(b).
(d)	§ 4.93(c).
(e)	§ 4.93(d).
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(b)	§ 4.31(c).
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1st paragraph	Deleted.
(a)	§ 4.33(d).
(b)	§ 4.33(e).
(c)	§ 4.33(c) and 4.36(b).
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(e)	§ 4.37(d).
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(a)	Deleted.
(b)(1)	§ 4.32.
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Table of OMB Control Numbers

The OMB control numbers for the Federal Energy Regulatory Commission, Department of Energy, appear in § 389.101 of Chapter I. For the convenience of the user, § 389.101 is reprinted below.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

§ 389.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This part collects and displays control numbers assigned to information collection requirements of the Commission by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. This part fulfills the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display.*

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902-)
2.19	0058,0015
2.56a	0055
2.69	0060
2.75	0052
2.76	0051, 0052, 0055
2.77	0051, 0052, 0055
2.78	0066
2.79	0060
2.80	0128
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Part 4 Subpart E	0058
Part 4 Subpart F	0058
Part 4 Subpart G	0115
Part 4 Subpart H	0115
Part 4 Subpart J	0115
Part 4 Subpart L	0058
Part 4 Subpart L	0115
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4.30	0073
4.31	0073
4.32	0058, 0073, 0115, 0136
4.33	0073
4.34	0073
4.80	0073
4.81	0073
4.82	0073
Part 6	0068
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11.3(d)	0136
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11.16	0087
16.1	0058, 0115
16.14	0058, 0115
16.15	0058, 0115
16.16	0055, 0115
24.1	0079
Part 33	0082
Part 34	0043
Part 35 Subpart A	0096
35.12	0096
35.13	0096
35.26	0096
35.27	0096
35.30	0096
Part 45	0083
46.3	0114
46.6	0099
Part 101	0021, 0029
Part 116	0021
Part 125	0098
141.1	0021
141.2	0029
141.14	0106
141.51	0140
141.61	0024
Part 152	0116
Part 153	0062
Part 154	0052
154.38	0070
154.52	0070
154.61	0070
154.62	0070
154.63	0070
154.64	0070
154.65	0070
154.66	0070
154.67	0070
154.91	0055
154.92	0055
154.93	0055
154.94	0055
154.94(k)	0057
154.95	0055
154.96	0055
154.97	0055
154.98	0055

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902-)
154.99	0055
154.100	0055
154.101	0055
154.102	0055
154.103	0055
154.104	0055
154.105	0055
154.106	0055
154.107	0055
154.108	0055
154.109	0055
154.110	0055
154.111(a)(3)	0070
154.301	0070
154.303	0070
154.304	0070
154.305	0070
154.306	0070
154.308	0070
154.309	0070
154.310	0070
Part 156	0061
Part 157	0052
157.5	0060
157.6	0060
157.7	0060
157.8	0060
157.9	0060
157.10	0060
157.11	0060
157.12	0060
157.13	0060
157.14	0128
157.15	0060
157.16	0060
157.17	0060
157.18	0060
157.20	0060
157.21	0051, 0060
157.23	0052
157.24	0052
157.25	0052
157.26	0052
157.27	0052
157.28	0052
157.30	0051
157.40	0052
157.100	0005, 0051, 0052
157.102	0060
157.103	0060, 0070
157.201	0060
157.202	0060
157.203	0060
157.204	0060
157.205	0060
157.206	0060
157.207	0060
157.208	0060
157.209 (e)(3), (e)(4)	0060
157.210	0060
157.211	0060
157.212	0060
157.213	0060
157.214	0060
157.215	0060
157.216	0060
157.217	0060
157.218	0060
157.301	0055
Part 158	0098
159.1	0060

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902-)
160.1	009
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Part 216	002
Part 225	009
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250.7	005
250.8	005
250.9	005
250.10	005
250.13	00
250.14	0036, 005
250.15	00
250.16	015
260.1	00
260.2	00
260.3	00
260.4	00
260.7	00
260.8	00
260.9	00
260.11	00
260.12	00
260.15	01
Part 270	00
270.101	00
Part 271 Subpart K	00
271.503	01
271.603	01
271.703(c)	01
271.903	01
Part 273	01
273.302	0070, 00
Part 274	01
Part 274 Subpart B	00
275.204	00
276.108	00
277.210	00
Part 281	00
Part 282	01
282.502	00
Part 284	00
284.7	00
284.8	0060, 00
284.9	0060, 00
284.10	0060, 00
284.11	00
284.12	00
284.102	00
284.105	0
284.106	0
284.122	0
284.125	0
284.126	0
Part 284 Subpart D	0
Part 284 Subpart E	0
284.221	0
284.222	0
284.223	0060, 0
284.224	0
284.226(d)	0
Part 284 Subpart H	0060, 0
Part 284 Subpart I	0
Part 290	0
Part 292	0
292.209	0058, 0
300.10	0
300.11	0
Part 340	0
Part 341	0

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902-)
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Part 344	0089
Part 345	0089
Part 346	0089
Part 347	0089
Part 351	0022
Part 352	0022
Part 356	0098
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382.105(a)	0132
382.201(b)(4)	0132
360.100	0015
360.101	0016
360.102	0017
360.103	0014
360.104	0013
361.100	0011
361.101	0018
361.102	0010
361.103	0009
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[49 FR 12692, Mar. 30, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 389.101, see the List of CFR Sections Affected in the Finding Aids section of this volume.

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1973, see the "List of CFR Sections Affected, 1949-1963, and 1964-1972," published in three separate volumes.

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